THE

AMERICAN WEST

COVER: *A .31-caliber pepperbox revolver, a favorite among gamblers, painted doves, and others occasionally forced to protect themselves in close quarters. Small enough to conceal, with a short but brutally effective range, the pepperbox was a weapon a man (or lady) could depend upon.*

Equally reliable, if somewhat more difficult to lug about, was the Remington .44-caliber revolver shown above, a hogleg among hoglegs that possessed the sinister beauty of something blending form and function with inimitable style: its form was designed to deliver a bullet with a force and precision approaching that of a rifle; its function was to kill.

THE

AMERICAN WEST

A design for law and order.

THE
AMERICAN WEST

THE MAGAZINE OF WESTERN HISTORY

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LAW, ORDER, AND SURVIVAL

OUR OPINIONS ON LAW AND ORDER in the vanished West have been formed, as John Greenway has noted aptly in *Folklore of the Great West*, in the safety of our remoteness from the hard questions that had to be answered then and there by people bent upon survival through guts and labor and a tidge or two of luck. Another aspect of our remoteness is that too often those who write about what they think *should* have happened then are, with memorable exceptions, those who never have lived in any way comparable to the lifeway of that vanished time, and would not wish to do so if opportunity offered. That gap of experience is significant, in spite of certain superficial similarities between today's world and that of the West-That-Was, for it tends to obscure certain salient factors necessary to an understanding of the function of law, order, and justice in a frontier framework.

Today's urban dwellers are subjected to unexpected violence by their fellows—muggings, robberies, rapes, even raids by hostile tribesmen—which a bygone frontier faced in virtually identical forms. Today's urban victim, however, may be more veneered by apathy, or social conscience if you wish, then were his forebears in responding to such onslaughts. Probably, he feels more hamstrung by the complexities of the laws that purport to give him order. Most certainly, he is *far* removed from the sense of community which the best of the West-That-Was instinctively produced in time of need. This sense of community posed no conflict between the competing claims of social order and individual conscience, because conscience and community were identical more often than not. This coincidence was due to reasons more brutally direct than those which today equate individual conscience with the total absence of restraints.

The community's purpose was survival. The purpose of the families that made the community was survival, not theorizing about togetherness. The individuals who comprised the families were concerned most purposefully with survival. Thus, each segment had a common moral code: the primordial ethic of survival. And survival walked hand in hand with acquisition, or the opportunity for acquisition, or at the very least with the hope of opportunity for acquisition.

Today, the urgency of survival is blurred by a careless affluence which depends upon an enforced and unconscious interdependence upon other men and the machines they serve, rather than upon known and visible individuals. Acquisition had become a dirty word, and parenthetically, "rugged individualism" has been distorted by assorted stump-screamers from its pristine meaning of self-reliance.

Wince though we may, survival and acquisition are the keys to any proper understanding of the frontier theses of Frederick Jackson Turner and David Potter and C. Vann Woodward. An uncritical acceptance of D. H. Lawrence's summation of the American soul as "harsh, isolate, stoic and a killer" obscures the importance of survival and acquisition in the quest for law and order in the West-That-Was.

The restless, seeking humans who settled the trans-Missouri West did not see their kind as an amorphous mass of mutants. They saw them, each and every one, as individuals. Today's reluctance to judge was foreign to them, because their survival depended upon the judgments they made every day, including Sunday. They knew that the Lord would judge *them* on the Last Day; until then they were content, and in their view competent, to make their own judgments of their fellow variants and abide by them. If, as sometimes happened, such individual judgments ran against the

community sense, the community could and often did decide (in the manner of certain primitive peoples) that an individual was a menace to community stability and dispose of him forthwith.

We must accept the fact that the trans-Missouri settler was not overly different from preceding westering generations. He, as they, much preferred the daily drudgery of sod-turning, or the equally monotonous scamper after livestock, to fighting Indians or chasing outlaws. When he had to do these latter things in self-defense, damning his government all the while for its failures, he was taking time from the basic business of his life—survival and acquisition—which may explain why, where jails were in short supply, justice was apt to be summary.

Anglo-Saxon tradition holds law and justice to be synonymous; that they are not always so does not diminish the ideal but does lead us today into confusing yesterday's government *de jure* with *de facto* law and order. That the two were not always the same is illustrated by the reflections of Abbé Emanuel Domenech on life in the 1850s along the lower Río Grande. There, he noted, "the inhabitants have little personal protection except their arms," because the region was "protected by nothing that could be called judicial authority." Yet there *was* a government in Austin, and other governments *de jure* in the Mexican states across the river—but in the view of those in a position to care, such government was worthless in the exercise of its most important function: protection.

The sentiment was not uncommon. Col. E. V. Summer, called "Bull Head" after a musket ball caromed off his skull, dismissed the civil government of New Mexico Territory as a miserable failure, "the executive, for want of power; the judiciary, from the total incapacity and want of principle in the juries; and the legislative, from want of knowledge." Manifestly, the appointment of a Territorial official or two and the drawing of boundary lines upon a Washington map did not constitute *de facto* protection among the gulches, buttes, and prickly-pear baldies where Henry Plummer reigned as sheriff. When and where this gap between *de jure* and *de facto* resulted in unbearable hazard, the community responded, either en masse as in San Francisco, or in the persons of such nuclear individuals as Granville Stuart, who left nineteen or some such number of dangling corpses as a *memento mori* for the edification of passersby.

The basic purposes of law and order, whatever form enforcement took, were the same then as they are today: to protect society from the criminal and to protect the criminal or alleged criminal from injustice. Preventive detention is a commonplace today in England, whence our system and our traditions stem. We did not practice it then, and do not today. Then, it cost too much time; today, it costs too much money. Today, neither society nor the criminal benefits from its lack. Then, the criminal, real or alleged, might suffer manifest injustice, but society in general was safeguarded, and this is what mattered to the "then" people, because their basic concern was the creation of order in a most disorderly society. That they did this, by whatever means came to hand, is evident.

What should be considered remarkable, finally, is not that there was turbulence and violence and lawlessness in the West-That-Was, but that there was not *more* of it in a society where settlement preceded institutions, and where survival for acquisition was the fact of life.

—W. H. HUTCHINSON

SAN FRANCISCO AND THE VIGILANTE STYLE: I

Let Each Man Be His Own Executioner—
Part One of a Two-Part Article on the
Vigilance Committees of 1851 and 1856

BY ROGER OLMSTED

WHILE THE PROBABLE, possible, or apochryphal antics of a handful of stiff-legged gunslingers have provided the grist for a full-blown mythology centering around the theme of law and order in the Wild West, the case remains that by far the most impressive struggles between organized villains, crooked sheriffs, grafting politicians, and citizens suddenly moved to "take the law into their own hands" was acted out, not in six-gun and saddle-leather country, but in the streets and counting-houses of San Francisco.

The vigilance committees of 1851 and 1856 hanged a grand total of only eight scoundrels, a trifle in comparison with the records rolled up by the later popular-justice activists of Idaho and Montana. These two San Francisco committees, however, worked in the full glare of regional and national publicity, they directly opposed the legal and judicial system of a full-fledged state government, and they constituted nothing less than successful armed rebellion by an aroused citizenry. The Committee of 1851 set the precedent for organized "vigilance" in the Far West, a precedent that was enthusiastically endorsed and imitated in scores of committees during a period that H. H. Bancroft has described as "the Augustan Age of murder." The Committee of 1856, "The Great Committee," was a popular revolution of such power, magnitude, and success that there are no clear parallels to be found for it.

Both of the San Francisco committees cast into bold relief some of the central problems of law and order that turned up at other places and times in the development of the West, perhaps the most obvious yet perennially surprising of these problems being that westerners often took the law unto themselves, not because the machinery of Anglo-Saxon justice was absent or inadequate, but because this machinery was, if anything, in such oversupply that "justice" went cheap at auction to the highest bidder. Again, the law was often for sale to those most in need of buying its favor because the populace was interested only in commodities. When the most substantial citizens thought of nothing but buying and selling, when "*everyone* was making money," what difference did it make that petty bandits and barroom murderers went unapprehended; or if arrested, unindicted; or if indicted, swiftly acquitted; or if convicted, then pardoned, released, or assisted in escape?

So it went in many places in the West —foremost among them the budding metropolis of San Francisco itself—until at some point the arrogance, the insolence of swaggering blackguards provoked a violent revulsion and dramatic overreaction. The populace would acquiesce in cases of flagrant miscarriage of justice, would suffer an active criminal element to operate almost unchecked, would ignore jobbery, bribery, and all kinds of civic chicanery—but it would not be *run over*.

Such is the only explanation for the extraordinary reaction in San Francisco to the robbery of Mr. Jansen, proprietor of C. J. Jansen & Co., on the evening of February 19, 1851. Jansen was alone in his store when two thugs posing as customers beat him senseless and fled with some two thousand dollars from the till. As robbery and even murder were common enough crimes, as the assault on Jansen was by no means the culmination of any unusual activity among the hoodlums of the town, and as Jansen was not killed and the amount stolen was not very large, it is not easy to see what all the subsequent fuss was about. The explanation probably lies in the fact that Jansen was a *merchant* and that he had been struck down in his *own store*. The arrogance of the attack made it an assault on all of the "best people" in town.

John Jenkins, who had the unmitigated gall to exclaim "Bosh!" when sentenced to hang by the neck until dead by the Committee of Vigilance, got his comeuppance in Portsmouth Plaza on June 11, 1851.

Of course there could have been no popular uprising without an identified criminal. He was provided the next day by the arrest of the notorious "Sydney Duck," James Stuart, who had been sought on a number of charges, the most serious of which was the murder of the sheriff of Auburn. The insolence of the assault was compounded by the insolence of the criminal, who not only denied the attack on Jansen, but claimed his name was Thomas Burdue. Jansen could identify him, though, as could a second man the police had picked up. The courtroom was packed at the arraignment, and more than five thousand men gathered about the building. The second criminal, Windred, drove the populace to fury when he produced the classic *alibi* of every thug brought to trial in that era—a friend who claimed that he had been playing cards with Windred at the time of the assault. Only the intervention of the militia saved the prisoners from immediate execution.

The mob at the city hall was no mob

at all, contemporary observers assure us. It was *the people*, many of the best people. They were prepared to act in an orderly fashion, but they were not going to suffer another outrage against justice, another mockery of the judicial process complete with false swearing, bought juries, and obscure motions by the defense. A handbill, perhaps the work of Sam Brannan, the apostate Mormon turned merchant prince, expressed the more extreme view of how the matter might be handled:

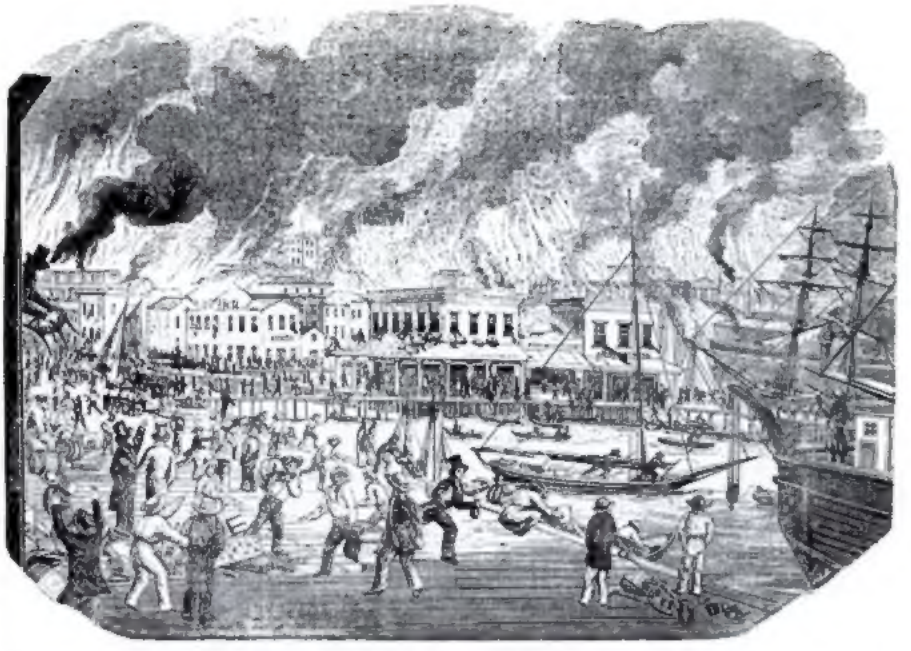
CITIZENS OF SAN FRANCISCO: The series of murders and robberies that have been committed in this city, seems to leave us entirely in a state of anarchy. *When thieves are left without control to rob and kill, then doth the honest traveller fear each bush a thief.* Law, it appears, is but a nonentity to be scoffed at; redress can be had for aggression but through the never failing remedy so admirably laid down in the code of Judge Lynch. Not that we should admire this process for redress, but that it seems to be inevitably necessary.

Are we to be robbed and assassinated in our domiciles, and the law to let our aggressors perambulate the streets merely because they have furnished straw bail? If so, *let each man be his own executioner. Fie upon your laws!* They have no force.

All those who would rid our city of its robbers and murderers, will assemble on Sunday at two o'clock on the plaza.

Some of these thoughts expressed were so much nonsense. For one thing, the plight of the "honest traveller" was at best a peripheral issue: honest travelers might be assaulted, robbed, or even killed in San Francisco without benefit of influential sympathy. For another thing, every man *was* his own executioner, and if a citizen of good character found cause to take a pot-shot at a suspicious-looking individual, he was not apt to be subjected to any rigorous official inquiry.

But "to be robbed and assassinated in our domiciles"—this was close to the heart of the matter, "our domiciles" meaning "our *stores*." The merchants were the leaders of the people who gathered to see justice done to Stuart and Windred. The violence suffered by one of their number was the overt cause of their action; the long-standing inadequacy of legal redress was what kept up their enthusiasm and finally led to their taking over the legal machinery themselves. "We are the mayor and the recorder, the hangman and the laws," said Brannan. "The law and the courts never yet hung a man in California; and every morning we are reading fresh accounts of murders and robberies. I want no technicalities."



The "Anniversary Fire" of May 3 and 4, 1851—widely believed to be an incendiary commemoration of the disastrous fire of exactly one year before—leveled nearly all of the most valuable portion of San Francisco. In the weeks following the seven-million-dollar holocaust, a number of attempts at arson added fuel to the incipient vigilante movement. Jibed the **Alta California:** "[San Franciscans] look with apparent satisfaction upon the sprightly attempts of the recruits of penaldom to illuminate our city free gratis."

The inability of the courts to convict known criminals was not entirely the result of corruption in the judges themselves. A central defect in the system lay in the means of selecting juries: the twelve men good and true were not apt to be the kind of selected jurors we have today, but were the first twelve men the bailiff encountered outside of the courtroom who were not obviously in a hurry to do something else. Hence, in any ordinary case, it was a sure bet that one or more of the jurors had been either bribed before his selection or intended to sell his vote as soon as the defense attorney made an offer. Mayor John Geary tacitly recognized this situation when on Sunday, with some eight thousand citizens gathered around the courthouse, he suggested to the leading merchants that they appoint twelve of their own number to sit as a jury in the Stuart-Windred case.

Geary's compromise was entirely unsatisfactory, not only because the temper of the people was up, but because it left open the second monstrous loophole in San Francisco justice. Geary may have promised that the trial would take place the following day—but once it was in the hands of the court, who could tell what might happen? Even as today, it was then a fairly easy matter for attorneys to show cause for delay in legal proceedings. In gold-rush San Francisco, this practice time and again permitted criminals to go free. The population was young and on the move; two weeks' delay, and the chances were that most of the witnesses for the prosecution would be scattered from Weaverville to Panama. In the case at hand, the chief witness—Jansen—was in some danger of

immediate death from his wounds, and might easily succumb to subsidiary infection or disease if the trial could be strung along by legal hanky-panky.

But if the merchants were out for blood, it was only for a little blood. If they feared personal violence more than citizens in most other occupations, they also feared general violence more than did the average man. The uncouth Brannan might depise niceties and formalities, but most of his colleagues seem to have sensed that they could very easily jeopardize their own best interests by openly scoffing at the laws. They found their logic and their spokesman in a young merchant named William T. Coleman, who addressed the mob, at once exciting their fervor for swift and impartial justice, and at the same time calling upon them to appoint a committee to organize a people's court, complete with judge, jury, prosecutor, defense counsel, sheriff, clerk, and whatnot, and to abide faithfully by its considered judgment.

Although the mayor raised a small armed force and declared that he would attempt to secure the prisoners in the event of a "guilty" verdict, and though another rude band organized with the intention of hanging the prisoners without benefit of any fol-de-rol, the *ad hoc* committee prevailed. The trial proved fair enough, for the jury disagreed—to the chagrin of the "public prosecutor," William T. Coleman, and most of the populace. The thoroughly frightened civil authorities made good their previous dereliction by swiftly trying and condemning Stuart and Windred to long sentences. Stuart was shipped off to Marysville to stand trial for the murder of Sheriff Moore of Auburn. Windred illustrated the final defect in the local judicial system by escaping from prison.

Those who wanted to "clean up" the city were left completely dissatisfied by the proceedings of late February. The object of the popular uprising having been so limited, the organization that it created—the trial committee—was useless once the case of Stuart and Windred was disposed. Suspected undesirables still arrived on ships from Sydney and South America, and the "honest traveller" who ventured into "Sydney-town" (at Clarks Point, near the base of Telegraph Hill) still had reason to fear every bush—or doorway. If anything, the criminal element became bolder.

There had been reason to believe, or at least suspect, that arsonists had kindled one or more of the great fires of 1850. Unsuccessful arson attempts had been detected, and one good-sized conflagration—the destruction of the City Hospital, owned by Dr. Peter Smith—was generally acknowledged to have been deliberately set. As the anniversary of the fire of May 4, 1850, approached, it was rumored that the town was to be burned again in commemoration of that spectacular event. Sure enough! Just before midnight of the 3rd, a fire broke out in a paint shop bordering the Plaza. Within a few minutes the fire was raging out of control.

The sturdy brick buildings with iron "fire shutters" that the prosperous merchants had built after their previous sad experiences with fires proved death-traps to those few so foolish as to close themselves inside. The fire department could do nothing to contain the blaze, spread by embers whirled through the air and tongues of flame pumped through the spaces underneath the newly planked streets and sidewalks. Before noon of May 4, all of the business section of the city was reduced to ashes and rubble. Literate San Franciscans could find a worthy parallel to their calamity only in the destruction of Moscow during Napoleon's invasion.

The aggressive citizenry at once set to work rebuilding the city, for there were still miners in the interior with gold in their fists, and ships still sailed through the Golden Gate every day with shirts and shoes and sealing-wax. The energetic pursuit of business interests was uppermost in the minds of the very best speculators and merchants. But just below the surface of their frantic daily routine there must also have been seething the conviction that *something* must be done, that *someone* must be punished, that there was *some* spark in the activities of the committee of last February that should be rekindled. On the third of June, a tangible incendiary was hauled into court. A crowd formed, crying for blood and Brannan. The prisoner was secreted by the police before Sam could take charge of the proceedings, and the populace dispersed. The incendiary was indicted—twice. Both times his counsel found judicial flaws in the indictment. The anniversary of the disasterous fire of June 14, 1850, drew near, and again rumors of an incendiary attempt upon the city sped about the town.

On Sunday, June 8, a couple of cit-

This Montgomery Street scene indicates something of the busy, broiling nature of the town as it bought, sold, built up, tore down, moved things about, and scrambled after the main chance.

The Committee's last official action was the hanging of the Sydney Ducks, Whittaker and McKenzie, in August. The membership then retired to business as usual, buying, selling, building up, tearing down, and moving things about—including pieces of San Francisco real estate acquired through methods at best shady, and at worst downright larcenous.

izens decided that something more substantial than the volunteer night patrol of merchants (established after the Jansen mugging) was needed. Confident of a favorable reception, they went to see Sam Brannan, who immediately fell in with their plans and lent his prestige as an amateur law-enforcer to an invitation to other reliable persons to meet the following day. By Monday night the general scheme of a "Committee of Vigilance" was determined; by Tuesday night it was an organization with constitution, bylaws, headquarters, and some two hundred members. The bylaws made the purpose of the committee explicit: the deportation of scoundrels. In the excitement caused by the subsequent hangings of four criminals, the general populace, then and in later times, tended to overlook the energy with which the committee pursued its announced intentions. The initial resolutions of the committee notified undesirables to "leave this *port*." They were not to "get out of town by sunset" in the supposed tradition of the Old West; rather, they were to take sail from the shores of California. Almost from the moment of its inception, the San Francisco vigilance committee was in communication with similar committees that sprang up in all of the major towns in the state, and this league of vigilantes was not in business for the purpose of shunting criminals from one town to another.

When the committee assumed the power to deport persons (and to restrain others from landing), it had taken upon itself perhaps a little more than some of the Tuesday signers had realized. Physical seizure and confinement of persons was implied in the assumption of this duty —though undoubtedly many people who joined the committee did not think much beyond the probable efficacy of the threat. It is apparent that such a committee, having no means of jailing malefactors for any extended period, would have to back up its threats with the ultimate threat: death. Perhaps even the majority of the original vigilantes were prepared to hang a Sydney Duck who failed to obey their order of banishment, but the decision would not have been an easy one, and would probably have badly split the committee. What would seem to have been an inevitable and painful choice never arose. Before midnight of the Tuesday on which it organized, the committee had committed itself to a hanging.

Unfortunate John Jenkins, a husky Sydney convict, chose Tuesday evening to hurl himself afoul the fresh-born committee, thereby establishing that the Committee of Vigilance was the *whole* law of San Francisco for so long as it chose to be that law. Poor Jenkins committed an offense so unlikely and outrageous, so perfectly calculated to sear the souls and inflame the brain-tissues of the worthy merchants who composed the committee, that it must be accounted a work of art rather than a fluke of fortune. He stole a safe full of money from an office on Long Wharf and tried to row off with it in a skiff. Pursued, he threw the safe into the bay; captured, he maintained a surly defiance; brought before the hastily-reassembled committee, he insulted his accusers; condemned to hang, he replied, "Bosh!" anticipating speedy delivery from this kangaroo tribunal. The nature of the affair and the nature of the criminal combined to strengthen the resolve of the committee, by the time the trial was over, the only question was whether to hang him immediately or to wait until morning, as William T. Coleman—always a stickler for ceremony—suggested.

It is more than likely that the "hang him now" advocates sensed that the future of the committee would be best served by committing the entire membership to a bold act before any second thoughts or quibbles arose to divide the organization. Sam Brannan, never one to quibble when there was hanging to be done, stepped outside, harangued the crowd that had assembled by the committee rooms, and offered the committee's judgment for ratification. The majority approved; Jenkins was dragged through the streets to a hanging in the plaza. Officers of the law made a token effort to rescue the prisoner; they were told to mind their manners. Organized scoundreldom made a bolder attempt to break the vigilance square; they were driven back by a show of arms. By this

time the vigilantes were so feverish that some of them thought to hang Jenkins from the liberty-pole in the plaza. "Don't desecrate the flag!" howled others, propelling the victim toward the adobe customhouse at the end of the plaza. The rope was cast over the projecting roof-beam. "Every lover of liberty and good order lay hold," spake Brannan, and it was done.

Thus was the committee committed. A coroner's jury could hardly overlook the incident, and enemies of the committee attempted the obvious tactic of singling out vigilantes for possible individual prosecution. The committee responded with a statement, signed by 180 members, insisting that all of them were equally implicated. And there the matter stood—forever.

New members joined the vigilantes daily, until by September there were over six hundred enrolled. Major work proceeded quietly and with enough success that by September 9 it could call itself "adjourned," for some months thereafter maintaining only the nucleus of an executive committee—and the implied threat of instant reorganization.

The hangings by the committee have always excited a lively interest, and with good reason, for each of four executions conducted by this first viligance committee in San Francisco exposed an important part of the nature of the organization. In the first case, Jenkins' crime aggravated the passions of the vigilantes and his execution committed them to strong and fearless action. Yet in Jenkins' case, the punishment was somewhat excessive for the crime; he was of known "bad character," but he was not tried for any murders he may have committed.

The second trial and hanging showed a considerable development in decorum and sensitivity to the possibility of wronging an individual. This case concerned the well-known James Stuart, and also concerned the wisdom of popular justice. The James Stuart in this case was not the same "James Stuart" who had been accused of mugging Jansen, had claimed he was Thomas Burdue, and had almost been hanged by a "people's court" in February. No, this was the *real* James Stuart! To its credit, the committee was just as quick about sending a representative up to Marysville, where the false Stuart was about to be executed by the legal authorities for the real Stuart's crimes, as it was about trying and hanging the notorious criminal that had turned up in its own net. Burdue, by now reduced to a pitiful state as the result of his unfortunate resemblance to Stuart, was rescued in the nick of time, and the San Francisco vigilantes made what financial amends they could. It may be said that this was more than the *public* would do then—or to this day—to make good its own grotesque wrong to an innocent man

The vigilance committee of 1851 came into open and armed collision with the law in August, when two of Stuart's associates, Sam Whittaker and Robert McKenzie, were seized from the committee rooms by Sheriff Jack Hays (the famous Texas Ranger, who was now busily developing the potential of San Francisco's most lucrative political post). The loss of the prisoners was a startling blow to the prestige of the committee, as the vigilantes had previously refused to deliver up these men (although they had turned many other minor criminals over to the authorities), as the sheriff had acted by Governor McDougal and the Mayor, and as it seemed unlikely that the sheriff could have managed his grab without the collusion of some members of the committee itself. The flawed organization of the committee, which for once gave the legal authorities better intelligence than that ordinarily enjoyed by the vigilantes, gave its leaders cause for alarm; the open defiance of its authority by the previously wishy-washy forces of the city, county, and state, required the Committee either take some swift, bold action or get out of business. The leaders chose to move with secrecy and strength. On Sunday, August 24, thirty-six vigilantes seized the county jail in a clockwork maneuver, bundled the prisoners into a coach, and to the prearranged

Continued on page 63

COLLECTOR'S CHOICE

A FIRST FOR LAW & ORDER

The document reproduced in its full original size on the following pages is an outstanding example of two substantial phenomena of the California gold rush, here combined into a single outlandish example of the favored ephemeral form of the times.

The scene is depicted upon a letter-sheet, one of hundreds of the genre produced in San Francisco during the early 1850s. Such printed sheets, with their scenes of towns and camps, mining methods, miners' humor, the tribulations of life, or notable events in far-off California, at once provided space for a personal message to the folks back in the States and a visual image of the wondrous curiosities of the new El Dorado.

Of all such curiosities, that commemorating the impending execution of José Forner must vie for position in the front rank. For on December 10, 1852, the luckless José became the principal in the first legal execution staged at San Francisco. Perhaps a thousand murders had preceded the deadly assault by Forner, but the machinery of justice seems to have been fated to withhold its full might until confronted by this dubious case.

Certainly the decision was popular: the gallows was erected near the highest point of the city, and nearly ten thousand spectators turned out to witness the epochal event. After it was done—murder as usual, with a conviction rate now just above zero.

—Roger Olmsted

CONFESSION OF JOSÉ FORNER y BRUGADA.

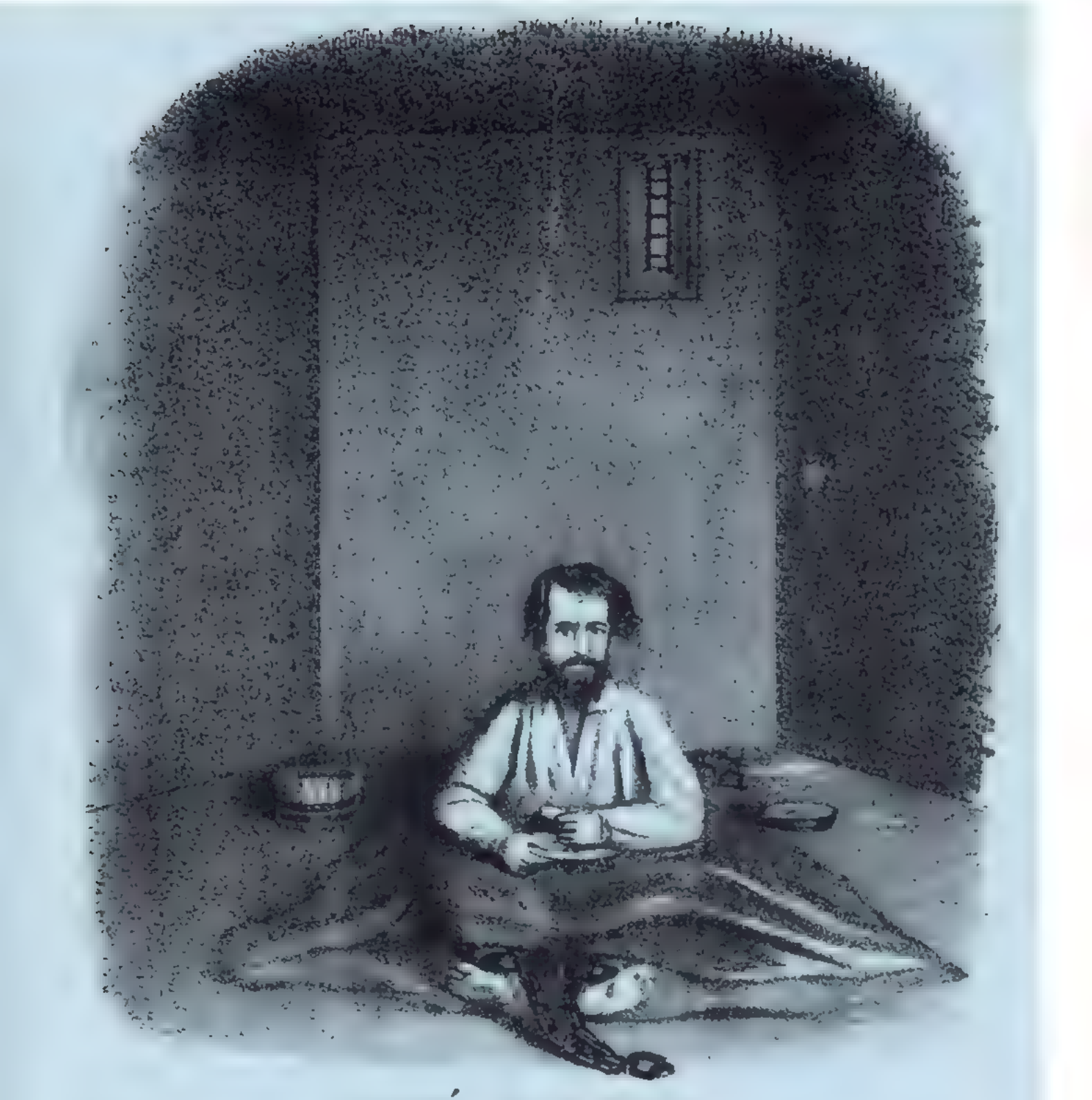
On the day that the killing was done, to wit: On the evening of the 8th of October, about the hour of 4 o'clock, in company with two young friends, talking of going to dine, they did not wish to go so early. I said, well, I would take a walk and see the Steam Paddy work. I then parted from my friends and walked towards Happy Valley; and while I was looking at the machine at work, one Jose Roderiguez (the deceased) came up to me and slapping me familiarly on the shoulder, said, "Hallo, José, what are you doing here?" I returned for answer, that I had come out for a walk, I at the same time noticed that the deceased looked strangely at me. After a few moments he asked me to come and take a drink with him, I said no, thank you, that I must away and obey a call of nature, I then left him and went on a sand hill, took off of my body my money belt, which contained some four hundred dollars, I laid the belt on the ground, at the same time I took off my knife, that also I laid on the ground: whilst I was in the act of dressing myself, deceased came running up to me, and saw my knife laying on the ground, which he instantly seized, and said, "I want your money," I said that I had but two or three dollars, which you can have if you wish it. He answered, "No, you have more and I will have it," at that moment he jumped towards me, I stepped back to avoid him, when he struck me a blow with the knife, which took effect in the calf of my leg, I exclaimed that he was a d——d scoundrel, what did he mean. He ran down the hill, I after him, he dropped the knife, I picked it up while running after him, he made an effort to get the knife away from me, what I done afterwards, G—d only knows, I was frantic with rage. I confess that *I did* intend to kill him, believing, at the time, that it was his intention to rob me and perhaps to kill me if necessary in its accomplishment. The money which I had when arrested, was my own, I had worked hard for a portion of it, the other portion won at cards. I was cook and confectioner at the Jackson House where I received $125. I also worked at the Nueva Mondo and at the Laguna: from these two places I received between $50 and 60, the balance of the money I won at cards at the El Dorado, Polka and Arcade in all about $400

SKETCH OF THE LIFE OF JOSÉ FORNER

I was born in Valencia, (Spain) in the month of May, 1820, of highly respectable parents. My uncle is Alcalde of Valencia, and all of my family, with but few exceptions, hold office under the Spanish government. I am worth in Valencia from $4000 to $5000 in real estate. At the age of 16 years I went to learn the trade of confectioner with my uncle; served with him 5 years; from there I went to Barcelona, was three years in the service of Don Jna. Costa; from thence I went with letters of introduction to the brother of my last employer Don Juan Costa, at Havana, Cuba, worked there two years; then went to my native place Valencia; from there to Madrid; from thence to Barcelona; then again to Havana, was there three or four months in the house of Dominicas; from thence to Vera Cruz, Mexico; thence to Puebla; thence to the city of Mexico; thence to Acapulco, from there to the city of San Francisco, where I have been working five or six months. I had about $75 when I arrived here. I worked for the proprietors of the Jackson House, the hotel Nueva Mondo and the Laguna. This is the first time that I ever was in prison, and never wronged any man of one dime. The money found on me was my own.

Signed,

José Forner y Brugada



JOSÉ FORNER,

Aged 32 Years, a Native of Valencia, Spain. Executed in San Francisco the 10th of Dec. 1852, for the Murder of José Rodriguez.

Published under the direction of the Keepers of the County Jail, Creation Job by Bowen, Ash & Williston, City of San Francisco.

LAW & THE LAND

The Legal Heritage of the American Southwest

BY ODIE B. FAULK

In 1869 A. S. Clough began farming a two-hundred acre ranch alongside Granite Creek in Yavapai County, Arizona. Over the next fifteen years he set out orchards and vineyards, and planted a few acres to wheat. The creek made this agricultural development possible; Clough built flumes and dug canals which brought its life-giving water to his land. Then in 1884 James E. Wing settled on land along the same creek just above Clough's ranch. He too began extensive irrigation, which included a large dam to divert water to his fields and orchard. This was so successful that by June, 1885, there no longer was enough water coming down the creek to irrigate Clough's land. Hot words ultimately led to a lawsuit, Clough arguing that he had made a prior appropriation of the water involved. In the trial that followed (*Clough v. Wing*, 2 Ariz. 371, 17 P 453), the jury found in favor of Clough. However, the judge, acting within his power in an equity case, disregarded the findings of the jury. Interpreting the case according to the English common law, he ruled that since Clough had stood by and watched Wing build his ditches and dam without protest, he could not dispute Wing's claim to the water, even in dry months.

When the case was appealed to the Territorial Supreme Court in February of 1888, however, the verdict was reversed. Associate Justice W. H. Barnes wrote the majority opinion, Chief Justice James H. Wright concurring. Tracing the history of water law in Arizona, Barnes declared, "The native tribes, the Pimas and Papagoes and other pueblo Indians, now, as they for generations have done, appropriate and use the waters of these streams in husbandry, and sacredly recognize the rights acquired by long use, and no right of a riparian owner is thought of." The problem in arid Arizona was not, as it was in England, to drain the water off the land, Barnes declared, but to see that what was available was put to the fullest possible use. Not only had the Indians followed this custom, but it had been the law of both Spain and Mexico: "Up to about a third of a century ago . . . , the territory of Arizona had been subject to the laws and customs of Mexico, and the common law had been unknown. . . ." The common law of England, Barnes emphasized, "has never been, and is not now, suited to conditions that exist here, so far as the same applies to the uses of water." Thus Clough was entitled to first use of the water, since he first had appropriated it, the sole limitation being that "no person can, by virtue of a prior appropriation, claim or hold any more water than is necessary for the purpose of the appropriation."

This case illustrates the orderly transition from Indian to Spanish to Mexican to American control in one portion of the American Southwest. Unlike earlier residents of the area, American settlers found that harsh geographical necessity dictated the laws regarding water. Nor was there an abrupt break in other phases of the law as political control changed hands.

The Southwest, Louisiana, and Florida are the only parts of the present continental United States that were not a lawless wilderness when the first Anglo-American pioneers arrived. Here the frontiersman found a fully developed legal structure in the European sense—a heritage of three centuries of Spanish exploration, settlement, and development. The legal system was based on Roman law, not the English common law, but it had been modified to fit the necessities of life in the New World. This Spanish legal heritage proved most pervasive in the realm of economic endeavor. The residents of almost every frontier area depend on an extractive economy for their livelihood. From the time of Juan de Oñate to the turn of the twentieth century, ranching, farming, and mining had been the principal pursuits of settlers in the Southwest; when the Americans took legal control of the region, they simply adopted the legislation already on record. For example, Teodoro de Croix, commandant-general of the *Provincias Internas* (as the Spaniards of the late eighteenth century designated the area), issued a decree in 1778 stating that a registry of brands would be kept in every province so that ranchers would know their property and be able to prove legal title to it.

In farming, the arid reaches of the area demanded stringent rules regarding water and its use. The Spaniards applied a rule known as "prior appropriation." This principle, quite different from the English common law principle of riparian right, has been adopted by almost every Western state in the United States. In mining, few large discoveries were made during the Spanish and Mexican periods; but in the rush to California in the late 1840s, among the first to arrive were

miners from Sonora, who brought with them not only Spanish mining techniques but also Spanish practices regarding claims, their sizes, and their registration. The forty-niners found these rules useful and adopted them in the back country where neither federal nor state or territorial law enforcement officials ventured. When the federal government in 1866 finally enacted laws concerning mining on the public domain, it copied almost verbatim the "miners' code" of the forty-niners.

Beyond these economic aspects of life in the Southwest, the Spaniards also had evolved a complicated criminal code. Although this part of their law did not have the impact on Anglo-American frontiersmen that their economic regulations did, it did influence subsequent legal codes and provided a continuity between Mexican and American rule in Texas, New Mexico, Arizona, and California.

American pioneers first came into contact with the Spanish legal system in Texas, which was colonized in the early 1820's under the laws of Mexico. That the Texans found this code acceptable is shown by the fact that they lived in peace under its provisions for more than a decade. They rebelled only when Antonio López de Santa Anna usurped the powers of a dictator and became a law unto himself. While the revolution was in progress, the Texans drafted a republican form of government similar to that of the United States. That constitution stipulated that "Congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require." Accordingly, when the first Texas congress met in the fall of 1836 and enacted a legal code, it was mostly English and American in origin. In the realm of water law, ranching regulations, and mineral rights, however, it contained definite evidences of the Spanish-Mexican heritage.

Next to come under American jurisdiction was New Mexico. Shortly after the outbreak of the Mexican War, Stephen Watts Kearny marched from Missouri with his "Army of the West," capturing Santa Fe without firing a shot. On September 22, 1846, Kearny issued governmental regulations for the conquered area. This came to be known as the Kearny Code, although its true authors were William P. Hall and Colonel A. W. Doniphan. The system, according to Kearny's own statement, came partly from the existing laws of New Mexico, partly from the laws of Missouri, and to a lesser extent from the laws of Texas and Coahuila. It guaranteed New Mexicans freedom of religion, recognized their land titles, and gave them full rights of American citizenship. In addition, most local officials were left in office under its provisions. Later, after territorial status was achieved in New Mexico, the legislature authorized a compilation of the laws of the territory. This task was entrusted to Judge James J. Deavenport, an associate justice of the territorial supreme court. When his work was completed in 1856, it was adopted under the name "Revised Statutes of the Territory of New Mexico." As in Texas, the code carried forward many of the provisions of Spanish law.

In California, the first American military commander during the Mexican War, Commodore J. D. Sloat, landed at Monterey on July 7, 1846, and promised quick civil government. Commodore Robert F. Stockton, who replaced Sloat as commander of the American Navy's Pacific Squadron, reiterated this promise three weeks later and encouraged *alcaldes* and other local officials to stay at their posts. When Kearny arrived and assumed control of the province in March, 1847, he issued a "Proclamation to the People of California," which declared, "The laws now in existence and not in conflict with the Constitution of the U.S. will be continued. . . " This meant that the bulk of Spanish-Mexican law remained in force

Military government continued in California until statehood in September, 1850. Because it did not provide the amount of self-government to which both the American frontiersman and the Mexican *Californio* were accustomed, this system resulted in bitter disillusionment. Had not the distractions of the gold rush intervened, the resentment might have burst into full revolt. The first California legislative session after statehood (known as the "Legislature of a Thousand Drinks" because it adjourned so frequently for liquid refreshment) did manage to enact a code of laws based on the better parts of both Spanish and American legal heritages.

The last area of the Southwest to come under formal American organization was Arizona. For fifteen years after the Treaty of Guadalupe Hidalgo was signed in 1848, Arizona was part of New Mexico and governed loosely by its laws. It became a separate territory in 1863, and in the following year the territorial governor, John N. Goodwin, proclaimed American civil law. But the New Mexican code continued in force until the first legislature convened in the fall and enacted a set of laws compiled by Associate Justice William T. Howell. Based largely on the laws of Michigan and California, the Howell code was extensively rewritten by the legislature to conform with conditions within the territory. This, of course, meant that the legislators inserted many provisions stemming from Spanish law, including the same economic regulations that Texas, New Mexico, and California had adopted. The code also stressed the community property rights of women, which distinctively differentiate the Spanish heritage from the English.

Thus almost immediately after coming under American jurisdiction, the states and territories of the Southwest had legal codes, just as they were provided with federal, state or territorial, and county courts; with judges and justices of the peace; and with U. S. marshals, sheriffs, and town constables. Perhaps the best known judge in the entire Southwest was Roy Bean, "the law west of the Pecos." Bean had prepared for his judicial post by working as freighter, butcher, wood contractor, dairy operator, saloon keeper, duelist, and even jail breaker. In 1882 he became the justice of the peace at

the railhead town of Vinegaroon, and later at Langtry, Texas. There he became famous for such antics as granting divorces when marriages he performed did not "take," saying he had a right to rectify his mistakes. His greatest notoriety came from two cases. In the first, when forty dollars and a pistol were found on the body of a man who had fallen off a bridge, he fined the corpse forty dollars for carrying a concealed weapon. In the second, he released a track worker who had killed a Chinese laborer because the law book did not state specifically that it was a crime to kill a "Chinaman." In context, both these decisions made eminently good sense. Bean knew the forty dollars was needed to bury the accident victim, and that the murderer's fellow workers were ready to riot if the tracklayer was punished for killing a Chinese.

Another justice of the peace, not so well known as Bean but more typical of the frontier judge, was Charles H. Meyer of Tucson. A German by birth and a druggist by profession, Meyer loved the law and justice, but he had no legal training. His entire law library consisted of two books, one titled *Materia Medica* and the other titled *Fractured Bones*. Yet his decisions were vigorous and straightforward. Although the lawyers of Tucson frequently had to strain to find an interpretation of existing laws to fit his rulings, those rulings were nevertheless almost always in harmony with honesty and good order. Judge Meyer instituted the system of allowing prisoners to earn time off from their sentences by cleaning the streets of the Old Pueblo, thus providing Tucson with clean thoroughfares and hastening the departure of many vagrants and petty criminals. Despite the general popularity of the program, a lawyer of dubious reputation once protested, declaring that his client was thereby being forced into involuntary servitude. He asked for a jury trial instead.

"By a *jury*?" asked Judge Meyer. "What is dis *jury*?"

The lawyer repeated, "I insist that he be tried by his peers."

Meyer exploded, "Oh, you do, do you? Well, I sentence him to two additional weeks on the chain-gang, and I sentence you to one week for disrespect of the Court. Now, how do you like that trial by jury?"

Not all judges were as interested in justice as Meyer and Bean, however. Justice of the Peace James Burnett of Charleston, Arizona, held court wherever he happened to be, using a double-barreled shotgun as bailiff, keeping all fines he collected, and growing fairly wealthy in the process. On one occasion Burnett pulled a drunken trail boss named Jack Harrar from the saddle, disarmed him, and on the spot fined him twenty head of three-year-old steers—which ended up on Burnett's ranch. When the county board of supervisors called on Burnett for a report of his fines, he replied that he kept no books and worked on a cash basis. The supervisors need not worry, he assured them, for his office was a self-supporting institution. Not until the 1890s did Burnett overstep himself. When a rancher upstream from his spread dammed the San Pedro River, Burnett dynamited the dam; in the flood of water that followed, the dam-builder's daughter was drowned. The rancher shot Burnett without a word at their next meeting, and a jury acquitted the murderer in record time.

Fortunately for southwesterners, such unscrupulous officials as Burnett were few in number. Yet because there were few requirements for obtaining employment as an agent of justice, occasions did arise in which life and property became unsafe and the laws a mockery. In these situations it became necessary for the citizens of the region to exercise *ad hoc* justice, through vigilance committees. The most famous examples of these were in San Francisco in 1851 and in 1856 (see page 6 of this issue). In both instances, circumstances had rendered the regular courts supine, law-enforcement officials helpless, corruption rampant, and abuse of authority widespread. As a result, the trials conducted by the vigilantes were not encumbered by legal technicalities; they were fair, but the hangings and deportations they ordered were swiftly carried out.

Another incident followed the bludgeoning of Vicente [*sic*] Hernandez, a shopkeeper, and his wife in Tucson in the summer of 1873. When the perpetrators of the crime were caught by a vigilance committee, they were tried in the public square, the entire population of the town acting as jury. The leader of the vigilantes, William Zechendorf, summarized the evidence, then spoke of the general lawlessness prevailing in the community and of the frequent evasion of justice by criminals through what he termed "delays and trickery in the courts." In summation he asked, "I now solemnly inquire of you, the assembled citizens of Tucson, what penalty these murderers deserve?" The crowd roared back, "They must die!" The three, along with John Willis, a brutal killer whose hanging had been postponed by a judge, were immediately swept into eternity by members of the local "uplift society."

What is especially noteworthy about the vigilantes of the Southwest is not the number of men they hanged, however, but the fact that once law and order were restored, most such groups immediately disbanded, returning the responsibility for law enforcement to regularly constituted authorities.

Distrust of lawyers, the courts, and the technicalities of the law was common on the frontier. When the people of a community felt justice was not being served through normal channels, they were quick to rectify such "mistakes," even if it was necessary to act beyond the law to do so. For example, in December of 1883 a gang of amateurish thugs robbed a store in Bisbee, Arizona. During the robbery they became nervous and fired at random into the crowd of shoppers, killing four. The "Bisbee Massacre" aroused the community, and a posse was quickly formed to hunt down the killers. One of the most indignant citizens in the search was John Heith, who acted like a bloodhound hot on a trail. Before long the rest of the posse began to suspect that Heith was deliberately trying to lead them in the wrong direction. Under

Continued on page 57

RINGO

"No human being could match the draw of—Ringo."

BY JACK BURROWS

RINGO! Arizona gunman and rustler Johnny Ringo, or Ringgo, or John Ringgold (presumably his real name) flits provocatively in and out of stories of the Old West, romantically described as everything from a college-educated intellectual to the fastest, deadliest of gunfighters. But history credits him with killing only one man—himself.

Gregory Peck as Ringo.

The panegyrics, myths, and downright fictions that grew up around Ringo, one suspects, spring from some deep need in the American temper to find an authentic western hero. Ringo's record is just spotty enough to intrigue, while admitting of no horrendous sin and lacking in the kind of intimate documentation that inevitably reveals flaws of character. He is made to order. He suffers not at all from his partnership in the "Curly Bill" gang of rustlers and horse thieves, or from his friendship with Ike, Billy, and Phinn Clanton, with Pony Deal and Frank Stilwell and Pete Spence—as miserable a gaggle of backshooters as was ever known to the western frontier—or with Old Man Clanton, a sanguine old hellion who was killed by the Mexicans whose cattle he was rustling. Ringo was with the outlaws, not of them. In books and in articles, even in depositions, he has been commonly disembodied and idealized. He becomes the apotheosis of the western hero, Byronic in stature, solitary, tortured, and mysterious. No rumors of an abandoned wife plague Ringo, the perennial bachelor, as they did Wyatt Earp; no charges of the pimping laid to Bat Masterson, no incredible assertions of the screaming transvestism of Wild Bill Hickok. Ringo is a brooding figure of Shakespearean dimensions, whose tragedy was played out before the eyes of all southeastern Arizona. Even his death bore an epochal quality. With gloomy prescience he told a *Tombstone Epitaph* reporter that he was as certain of being killed as of living then. He said he "might run along for a couple of years more, and [he] may not last two days." On July 14, 1882, he was found deep in a shady thicket of blackjack oaks in the Chiricahua foothills, slumped in the bowl of a five-stemmed blackjack, pistol in hand, a bullet hole in the right temple, aswarm with ants and coprophagous insects and with a goblet of flesh unaccountably hacked from his scalp. Thus he died in legend, not just a drunken suicide with psychopathic tendencies, as the facts suggest, but the lonely intellectual, bitter and disillusioned.

Yet there is apparently just enough truth in the Ringo legend to give it substance. Judge J. C. Hancock, who came to Arizona in 1880 and lived in and around Galeyville, rustler headquarters of the Chiricahuas, knew and admired Ringo enormously—and somewhat incongruously when one considers that Ringo was a rustler. But since Hancock was a jurist, a certain infallibility has attached to his later statements

and newspaper articles. Writing in the *Epitaph* of November 28, 1929, Hancock declared that Wyatt Earp was "not the brave man or the Lion of Tombstone. The Real Lion was John Ringo, and the bravest man I ever knew, [he] never courted notoriety, or wore long hair or a ten gallon hat, [he was] smooth shaved, used good language, and did not have a 'soft Southern drawl' or use the words 'heah' or 'aboot'." He was a "fine looking man. [I] saw him sober and under the influence, but never saw him abuse or 'shoot 'em up'." Hancock, by 1929, doubtless saw Ringo refracted through the lens of legend. But a certain credibility obtains about his remarks, if not because of his legal position, certainly because of his vehemence! His later comments, however, suggest that his juridical morality was quite simply that of the lawless element about him. He boasts that the rustlers "never molested small ranchers." He talks casually and knowledgeably of the trail up from Mexico over which the rustlers drove stolen cattle; he describes the so-called battle at San Luis Pass during which Ringo and friends killed "fourteen Mexicans." Although these figures have never been proven, they at least reflect the judge's amicable adjustment to the western border philosophy: it was open season on Mexican cattle and, for that matter, on Mexicans

Ringo *was* known to "abuse" and to "shoot 'em up." A piece in the *Tucson Daily Star*, dated December 14, 1879, entitled "More of It," not only eloquently refutes the judge but adds to the paradox of John Ringo: "Last Tuesday night a shooting affair took place at Safford in which Louis Hancock [no relation] was shot by John Ringo. It appears Ringo wanted Hancock to take a drink, and he refused, saying he would prefer beer. Ringo struck him over the head with his pistol and then fired, the ball taking effect in the lower end of the left ear, and passed through the fleshy part of the neck. Half inch more in the neck would have killed him. Ringo is under arrest."

Judge Hancock, though, was merely a Ringo partisan when compared to Joe Chisholm, newspaper editor and author of *Brewery Gulch* and numerous short stories about the Southwest. Chisholm produced an unpublished and undated manuscript (probably written in the 1930s) entitled "Tombstone's Tale—The Truth of Helldorado" that accomplishes the exaltation of Ringo into knighthood while denigrating "those gunmen who were deadly afraid of the soft-spoken contemporary of John Slaughter, the Earps and Doc Holliday." Writing in response to a flood of letters from "indignant old-timers" interested in the rehabilitation of the "memories of knightly men around whom rallied the decent people of Tombstone and its environs..." (including, presumably Ringo and Curly Bill), Chisholm, with total recall and pure dedication, calls up his boyhood recollections of Ringo when the gunman fell just short of dandling little Joe on his knee. The recollections were occasioned by Ringo's visit to the home of Joe's father, "justice of the peace, sole officer of the law, in Bisbee over the mountain from Tombstone." Always a favorite of judge and justice, Ringo spent hours in front-porch conversation with the elder Chisholm. Being privy to these discourses between educated outlaw and learned justice —the latter was an alumnus of Boston College and Georgetown University—was an awesome and lasting experience for the boy: "Thus, partly in a vicarious way, I knew the gallant Robber Baron of the Border. I liked him, for that knightly fellow was as kindly to children as he was courteous to women, whether soiled doves of the dance halls or the chaste matrons of the camps."

One evening Joe, an inquisitive little chap, asked Ringo "if he had ever shot anybody. For a moment he looked very serious, then indulged in one of his infrequent smiles as he assured me he hadn't." When the judge admonished Joe to be "seen and not heard," Ringo, in an avuncular gesture, "softened my embarrassment . . . by giving me a quarter to buy a package of chocolate."

History rode hard on that two-bit package of chocolate. Boy and man, Chisholm was Ringo's champion, rushing into print to attack "lazy and unscrupulous chroniclers" who "have resorted to faking when touching upon this paladin among brave men . . ." whenever any writer suggested a certain incompatibility between "knightly" qualities and the instincts of a cow thief, gunman, and jail escapee. Yet Chisholm's own research draws almost exclusively from childhood memories and from his association with the former deputy sheriff of Tombstone, William "Billy" Breakenridge. In 1928, Breakenridge published a memoir entitled *Helldorado*, from which Chisholm borrowed, heavily—including part of the title. The legend begins here. Ringo, Breakenridge wrote, "was a very mysterious man . . . he had a college education, but was reserved and morose . . . drank heavily as if to drown his troubles . . . a perfect gentlemen when sober . . . quarrelsome when drinking . . . a good shot and afraid of nothing . . . great authority with the rustling element . . . had a small collection of standard books in his cabin."

But Breakenridge was not always reliable. And for a deputy sheriff, he had a curious relationship with Ringo: "I met Ringo frequently on my trips to Galeyville and was very well acquainted with him, and we had many pleasant visits." Sheriff John Behan, Breakenridge's superior, also had a cozy relationship with the outlaws, often going so far as to deputize them as possemen. Both Breakenridge and Behan regarded the Earps, who from time to time were marshals, deputy sheriffs, and city policemen, as enemies; the outlaws, paradoxically, were their allies. On August 19, 1881, the *Epitaph* warned: "There is altogether too much good feeling between the sheriff's office and the outlaws infesting this county."

Chisholm had long before chosen sides. All he needed from Breakenridge was an embellishment of his prejudices to produce some of the most sentimental, maudlin, and just plain god-awful writing in and about the West: "Inscrutable, Johnny Ringo looms upon the violent horizon of Tombstone's past, vague as King Arthur through the mist of years. His per-

sonality and career were strikingly similar to those of the Black Knight of the South, Alexander K. McClung. . . . Each lived only a few furious years, each after the fashion of his time possessed a high sense of honor. Although many women smiled upon them, the only woman either ever loved was Lady Death."

Ringo, one likes to think, would have been embarrassed. But being lifted from cow thief to "Robber Baron" and "looming on horizons" was only part of the Ringo mystique. There was that education which set him apart, that college from which he was presumably rusticated. In all probability, Breakenridge assumed that Ringo was a college graduate because he apparently did not speak in the rhetoric of the frontier. Judge Hancock said he "used good language," never said "heah" or "aboot." And a stage driver who knew Ringo referred to him as "tall, good looking, well educated." There was also the rumor that Ringo's two sisters taught school in San Jose, California, where they lived with their uncle, Col. Coleman Younger. Chisholm suffered never a doubt: "Ringo was a cultured man . . . a college graduate. Between cattle raids below the border he delved into history, sociology, English literature, intently; continuing, no doubt, studies interrupted by some youthful misadventure. . . . Breakenridge told me Ringo had several shelves filled with classics in his mountain cabin" (a normal expansion from "a small collection of standard books"). With knightly consideration, Ringo was " . . . careful never to flaunt . . . his superior education before his illiterate followers [who] nevertheless regarded their well-bred leader with an awe as great as their physical fear of him. They were respectful and loyal to Johnny, but there was a cultural wall . . . that was a ban to real intimacy."

That "cultural wall," along with Ringo's compulsive and monomaniacal preoccupation with death, have become the endlessly repeated leitmotifs of television and motion picture Westerns. And the theme of his education, his brains, his culture—along with what Eugene Cunningham called "his force, his triggernometry"—run persistently through all writing about him. In 1922, Frederick R. Bechdolt published a book entitled *When the West Was Young*. Here Ringo rides inexorably to his death across the intense aridity of the Sulphur Springs Valley: "In this manner it came about that the outlaws of Cochise County lost their leader; and now that the man of brain was gone it became possible for events to shape up, as they did soon afterward, toward the big Earp-Clanton gunfight. . . . Old timers are unanimous in saying that had John Ringo been alive . . . the chances are victory would have gone the other way." Bechdolt was so concerned with "the man of brain" that he got a bit careless with his facts, not an uncommon affliction when writing about the enigmatic Ringo. The Earp-Clanton fight at the O K Corral took place October 26, 1881. Ringo died on or about July 12, 1882, nearly nine months later.

Then, in 1959, another Chisholm surfaced—no relation to Joe, but just as creative—whose story appeared under the imposing title *Memoirs of (the Late) Daniel Fore (Jim) Chisholm and the Chisholm Trail*. Written and privately published by Louise and Fullen Artrip, it is another exclusive old-timer, now-it-can-be-told tale. Chisholm, because of his professed early association with the Ringo–Curly Bill gang, remained in semi-hiding right up to his translation into Valhalla, fearful of whatever justice might be meted out to an octogenarian ex-owl hooter. He appears to have whiled away those watchful years reading up on southwestern history, including Walter Noble Burns's highly fictional *Tombstone*. But one cannot fault his imagination. As "Texas Jim"—at least he did not claim to be Jesse James—he had to be the most ubiquitous hairpin ever to belt on a six-shooter. He was a child of the Sutton-Taylor Feud in Texas. He was a cowboy for John Slaughter. He rode with Curly Bill and Ringo. In 1896 he visited Curly Bill in Mexico (fourteen years after Curly had been killed by Wyatt Earp in Arizona's Mustang Mountains). He was confidante to outlaws, including Ringo, who unfathomably bared their souls and entrusted their guilt to this callow youth.

One day on the trail with Ringo, after an evening of campfire meditation, Chisholm muses over the "manner of trouble" that "could have turned a mild-natured, intelligent man like Johnny Ringo into such a ruthless, 'cold-blooded killer.' Some said it was DRINK [*sic*] that caused his downfall; others claimed that a WOMAN was back of it all." When Ringo was in a "vile mood," Chisholm said, "even 'killers' like Curly Bill, Jim Hughes, Doc Holliday and the Earps, trod 'lightly' in Ringo's presence."

One prefers, though, the fanciful yarns of an imaginative old duffer, the stridency of an involved Joe Chisholm, the carelessness of a Bechdolt, or the commercialism of a Walter Noble Burns, to modern magazine articles and novels on Ringo. Invariably, today's writers concentrate on how Ringo was killed. Rarely do they accept the verdict of the coroner's inquest: suicide. *Gunslingers of the West*, a Westerama Publication issued seasonally, in an article as hurriedly ungrammatical as it is inaccurate, suggests that "Joe" Ringo was shot in a saloon by Buckskin Frank Leslie and hauled to the spot where his body was found. In the 1957 issue of *Saga*, Buckskin Frank, after words at a bar, follows Ringo out of Tombstone and apparently beats him to the draw: "Ringo's gun was in his hand, but it hadn't been fired." In the 1961 *True Western Adventures*, Johnny ("Behind-the-Deuce") O'Rourke, a tinhorn who was anything but a gunman, kills Ringo in a face-to-face shoot-out over a "busty" Mexican beauty Ringo murdered. In 1963, Ray Hogan published a novel, *The Life and Death of Johnny Ringo*. Ringo is again presumed murdered. He slid into the bowl of the blackjack oak and "touched the ivory-handled pistol at his hip. . . . A long sigh slipped from his lips. He would rest for a little while. . . . Suicide? Hardly."

It makes little difference who killed Ringo. If new material turns up, we shall be grateful, to some scholarly serendipitist.

But with the mysterious image so solidly cast, the flamboyant figure so lavishly endowed, it is doubtful if the intrusion of mere facts will substantially alter the legend. Was Ringo a gunman, dangerous and fearless; a man of force, of deep loyalties, of quixotic and perverse honesties, of gallantries and cruelties? The answer is obviously *yes*. A stage driver on the Clifton-Lordsburg line knew Ringo when the outlaw kept his horse at Smyth's livery stable in Lordsburg. It was Ringo's habit to ride out without paying for the stabling. When the hostler complained, Smyth said, "That's all right. Take good care of the horse when it comes in. I'd rather have Ringo's friendship than his hatred. Besides when he has the money he will come in and pay." A. M. Franklin, cattleman, who knew and obviously liked Ringo, remembers "a fellow who had it in for me and when I went into a saloon he began to cuss me out. . . . Of course he was armed and all he wanted was an excuse. About that time Ringo came in. He heard enough to catch the drift . . . slapped down his money and announced, 'All Franklin's and my friends have a drink.' No one dared insult him by refusing . . . the obnoxious fellow included." Franklin remembered another time when there was a row in a store. "Ringo . . . slamming his gun on the counter . . . remarked, 'If there is going to be a row I think I would like to be in on it.' Everyone . . . had business elsewhere."

When Ringo's body was found, the *Tombstone Epitaph* of July 22, 1882, was unexpectedly kind: " . . . few men in Cochise Co. or southern Arizona were better known. He was recognized by friends and foes as a recklessly brave man who would go any distance, or undergo any hardship to serve a friend or punish an enemy . . . he was far from being a desperado and we know of no murder . . . laid to his charge. Friends and foes are unanimous in the opinion that he was a strictly honorable man in all his dealings and that his word was as good as his bond." The *Tucson Daily Star*, July 18, 1882, wrote: "John Ringgold, one of the best known men in southeastern Arizona was found dead . . . in the Chiricahuas. . . . He evidently committed suicide. He was known in this section as 'King of the Cowboys' and was fearless in the extreme. He had many staunch friends and bitter enemies."

But that other side, the "dark" and unpredictably dangerous side of Ringo kept appearing. On August 11, 1881, the *Tombstone Nugget* printed a story entitled "A Social Game." It reported: "One of Galeyville's festive cowboys named Ringold [*sic*] last Friday entered into a game of poker, and not being as expert with the 'Keards' as he is with his 'gun' he soon 'went broke.' . . . He returned . . . with David Estes . . . armed with a Henry rifle and a six shooter. The players were . . . ordered to hold up their hands and the cowboys proceeded to 'go through' the party, securing . . . $500." Ringo reputedly returned the money, claiming it was all a joke. He was arrested by Breakenridge, came to Tombstone on his own terms, and was promptly turned loose.

Robert Boller, a young cowboy who knew Ringo and helped bury him, said, "He was a pretty nice fellow and came from a good family but he was wild, used to get on some drunks, and became very despondent." Boller was convinced Ringo had the dt's. He "imagined he had snakes in his boots."

Still there is only one *documented* instance when Ringo came close to an honest-to-god "papa-tell-it-skerry" shoot-out. This was the famous Earp-Holliday-Ringo encounter on Tombstone's Allen Street. According to Breakenridge, who came along later, Ringo offered the Earp party a sporting proposition: "Wyatt, let's end this row [between lawmen and rustlers]. . . . Let Holliday and me get out here in the middle of the street and shoot it out. If you get me, the cowboys will go home and consider the feud ended. If I am the winner, you agree to do the same and it will all be over."

Breakenridge, Chisholm, Hancock, et al. believed the Earps and Holliday were afraid of Ringo simply because they did not fight. The ridiculousness of Ringo's terms—that the losers must leave town—seems not to have occurred to them. And the Earps and Holliday did not retreat, as Breakenridge insinuates. George Whitwell Parsons, an intelligent and educated businessman, witnessed the affair and made a succinct entry in his journal: "Ringo and Doc Holliday came nearly having it with pistols. . . . Bad time expected with the cowboy leader and D. H. I passed both not knowing blood was up. One with hand in breastpocket and the other probably ready. Earps just beyond. Crowded street and looked like another battle. Police vigilant for once and both disarmed."

Breakenridge claimed Ringo was afraid of being shot in the back by the Earp crowd and tried to force the fight into the open. But it's a matter of record that the Earps were the only ones back-shot in Tombstone. In 1882, Virgil Earp was ambushed on Allen Street by shotgunners and crippled for life. A short time later, in March, Morgan Earp was shot in the back and killed as he played billiards in Hatch's saloon. The killer(s) fired through a back window.

Not unreasonably, Wyatt Earp believed Ringo was involved in the shootings. Ringo's votaries scoff at the notion that Ringo would shoot anyone in the back. But that "knightly" fellow had an interesting record in Texas. The *San Antonio Express* of October 6, 1875, and the *Austin Daily Statesman* of October 17, 1875, report that John Ringo and one Williams, both members of the Scott-Cooley gang and warriors in the Hoodoo War, shot and killed a man named Cheney. Cheney, a minor functionary in one of the warring factions, was shot down while washing his face after inviting Ringo and Williams to "get down and eat." In January, 1876, Cooley and his gang, including Ringo, went looking for Peter Bader, a leader of the opposing faction. They went to Charley Bader's place by mistake and killed him.

What puzzles is Ringo's standing among such prominent western figures as Wild Bill Hickok, the Earps and Holliday, John Wesley Hardin, Bill Tilghman, Bat Masterson, Billy the Kid, Pat Garrett, Ben Thompson, Frank Hamer—all of whose

lives are well documented and have been the subjects of individual biographies. No biography of Ringo seems possible (though one has, for years, been rumored under preparation, based on the diary of his mother). Had Ringo and Doc Holliday shot it out in the streets of Tombstone, it might have been *the* classic gunfight of the Old West. But all we have, really, to establish Ringo's gunmanship are two miserable murders in Texas—and there is no actual proof that he participated in these—and the clumsy attempt to shoot Louis Hancock.

RINGO

He laid face down in the desert sand,
Clutching his six-gun in his hand.
Shot from behind I thought he was dead,
For under his heart was an ounce of lead.
But the sparks still burn, so I used my knife –
And late that night I saved the life
of Ringo.

I nursed him til the danger past.
The days went by - he mended fast.
Then came dawn til setting sun,
He practiced with that deadly gun.
An hour an hour I watched in awe,
No human being could match the draw
of Ringo.

© Don Robertson Music Corp.

One suspects that Ringo's immortality lies in the tonal quality of his name. It is eloquent of outlawry, dark, mysterious. It has the ring of heroism, a name without origin or identification. History's best example of the name making the man is Paul Revere. Revere's name did not appear in a single biographical reference book until after Longfellow's poem. In her poem, "What's in a Name?" Helen F. Moore celebrates the unsung William Dawes who galloped on to Concord with the news when Revere was nabbed by the British:

Why should I ask? The reason is clear
My name was Dawes and his Revere.

Ringo is a name that lends itself well to book titles, articles, songs, theatre marquees. A 1966 movie is entitled *A Pistol for Ringo*. The Westering outlaw in John Ford's *Stagecoach* is the "Ringo Kid." In *The Gunfighter*, Gregory Peck played "Jimmy Ringo." In an old Hopalong Cassidy movie, Ringo kills Belle Starr and is, in turn, killed by Hoppy. Ringo's name has been dropped constantly in such shows as the defunct "Wyatt Earp" program; and in "Gunsmoke," a tense statement, "the Ringo gang is in the hills," is as ominous as "the Indians are out." A few years back there was a weekly "Johnny Ringo Show." Don Durant was a square-jawed Sheriff Ringo who, between enforcing the law and killing off reputation hunters, invented the LeMat revolver, a French patented over-and-under contraption — .45 above and .410 shotgun below — that was used to a small extent in the Civil War. Jeb Stuart carried one. The show opened and closed with a song:

Ringo, Johnny Ringo
Fears were never shown
Fastest gun in all the West
Quickest ever known.

"Ringo" is also the title of a popular record recited, or chanted, by Lorne Greene, the Big Daddy of TV's "Bonanza"

No human being could match the draw of—Rrrringo
On his stone they can't explain
The tarnished star above the name of—Rrrringo.

Ringo is the menace in a cartoon strip, "Rick Martin," by John Diamond which runs in the London *Evening News*. Ringo rides through a false-fronted Tombstone, firing in both directions. Two distinct British types head for the floor in a shower of glass shards and shell casings that look big enough to have been ejected from a .155. Said one, clutching his bowler, "It's that Ringo mob. Knew there was gonna be trouble moment Ringo showed up." Said the other, "Reckon what we need around here is some real peace officers."

Even Ringo's grave, a boulder-heaped cairn directly behind the five-stemmed blackjack oak where his body was found, midway between the dust-deviled Sulphur Springs Valley and the pine-stippled Chiricahuas, is eloquent of outlawry.

In June, 1938, an effort was made to place a marker on the grave commemorating him as "King of the Outlaws." There was to have been a ceremonial dedication, but the effort failed, with an able assist from the *Tucson Star*. Ringo, the editor wrote, was "probably less bold and valiant than the title 'King of Outlaws' indicated. . . . We can't imagine what the orator can say about Ringo that would be both complimentary and truthful . . . except two minutes of silence." &

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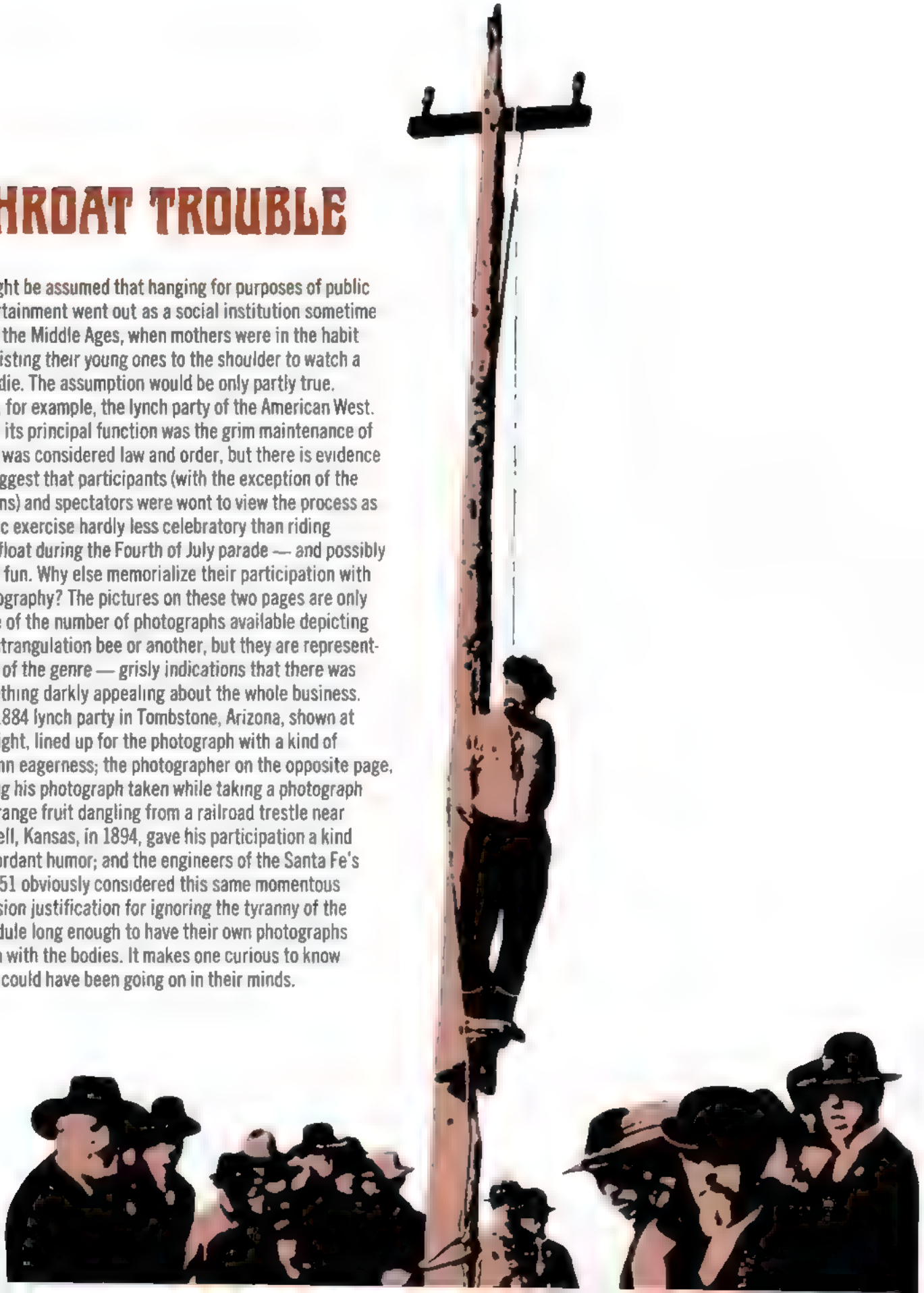
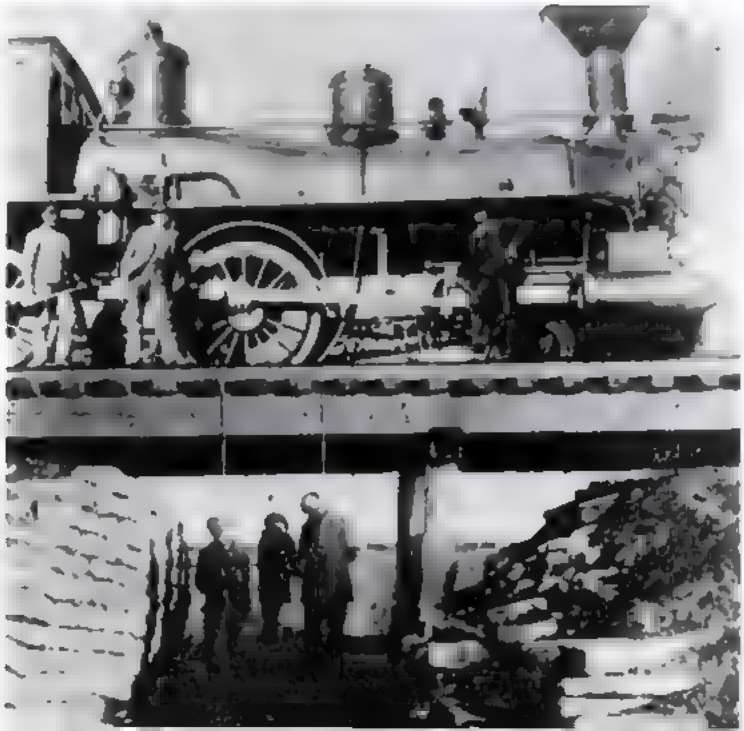
THROAT TROUBLE

It might be assumed that hanging for purposes of public entertainment went out as a social institution sometime after the Middle Ages, when mothers were in the habit of hoisting their young ones to the shoulder to watch a man die. The assumption would be only partly true. Take, for example, the lynch party of the American West. True, its principal function was the grim maintenance of what was considered law and order, but there is evidence to suggest that participants (with the exception of the victims) and spectators were wont to view the process as a civic exercise hardly less celebratory than riding on a float during the Fourth of July parade — and possibly more fun. Why else memorialize their participation with photography? The pictures on these two pages are only three of the number of photographs available depicting one strangulation bee or another, but they are representative of the genre — grisly indications that there was something darkly appealing about the whole business. The 1884 lynch party in Tombstone, Arizona, shown at the right, lined up for the photograph with a kind of solemn eagerness; the photographer on the opposite page, having his photograph taken while taking a photograph of strange fruit dangling from a railroad trestle near Russell, Kansas, in 1894, gave his participation a kind of mordant humor; and the engineers of the Santa Fe's No. 651 obviously considered this same momentous occasion justification for ignoring the tyranny of the schedule long enough to have their own photographs taken with the bodies. It makes one curious to know what could have been going on in their minds.





Idealistically, the Mountie saw himself as protector, not exploiter, of the new land. James F. McLeod, first appointed assistant commissioner and later commissioner, personified the ideal. Respected by all, he was largely responsible for maintaining friendly relations with the Indians.

THE "THIN RED LINE" IN THE CANADIAN WEST

The North-West Mounted Police, who began in error and ended in romance

BY HUGH DEMPSEY

THE SCARLET-COATED MOUNTED POLICEMAN, astride his faithful horse, has become a hero figure of the Canadian West. Glorified in movies by such men as Nelson Eddy and Alan Ladd, and in comic books, pulp magazines, and children's books such as *King of the Royal Mounted* and *Dick Kent with the Mounted Police,* he has emerged as a steely-eyed hero fighting crooked French-Canadian trappers, fur thieves, and hostile Indians. He was someone who always got his man.

Strangely enough, the legend has not strayed so far from fact as to make the real figure unrecognizable. While one might have difficulty comparing the fearless sheriff of modern television with many drunken, cardplaying sheriffs of earlier days, the Canadian Mountie in moving from fact to legend has been able to retain a certain element best described as a "stiff upper lip." British in concept and often British in origin, the Mounted Policeman was a counterpart of the imperial soldier. Underpaid and often underfed, he personified the best in the "thin red line" tradition.

The North-West Mounted Police were uniquely Canadian. In 1670, control of the territory of northwest Canada had been granted to the Hudson's Bay Company under a charter from Great Britain. In 1870, this territory was transferred to the newly-created Dominion of Canada, but because of government mismanagement no arrangements were made to take over responsibility for legal jurisdiction. In effect, a large portion of western Canada was suddenly a land without law.

Free traders in Montana were quick to realize the value of such a territory. Two particularly enterprising merchants, Alf Hamilton and John Healy, loaded wagons with supplies and went north to build Fort Whoop-Up on Belly River, near the present city of Lethbridge, Alberta. There, through the winter of 1869-70, they carried on a profitable business in whiskey, guns and trade goods, and returned to Montana in the spring with fifty thousand dollars profit.

Heartened by the success of this venture, other traders became willing to risk the hostile Blackfoot Indians, and soon such illicit posts as Standoff, Slideout, and Robbers' Roost dotted the Canadian plains. In charge of them was an assortment of unruly frontiersmen, glorifying in such names as Dutch Fred, Antelope Charlie, Liver-Eating Johnson, Whiskey Jack, and Skookum Jim. Whiskey was their main stock in trade. A visitor to Fort Whoop-Up noted: "They came here to make money. They traded everything, but made their money on whiskey, and whiskey alone."

The effect was disastrous. The once prosperous Blackfoot sold their horses, robes, and all earthly possessions for the potent sprits. Many deaths resulted from drunken quarrels or poisoning from the laudanum-laced concoctions. A Catholic missionary observed: "The firey [*sic*] water flowed as freely as the streams running from the Rocky Mountains, and hundreds of the poor Indians fell victims to the white man's craving for money, some poisoned, some frozen to death whilst in a state of intoxication, and many shot down by American bullets."

The missionaries, shocked by the terrible loss of lives, and the Hudson's Bay Company, even more shocked by the terrible loss of business, complained to the new Canadian government during the early 1870s, but with no success. The West was too remote; it had practically no voters and even fewer politicians. Not until 1873, when some twenty or thirty Assiniboines were slaughtered by traders and wolfers in the Cypress Hills, was the government forced into action.

Initially, Canadian officials contemplated a circuitous way of getting rid of the whiskey traders. As reported by Lord Dufferin, Governor-General for the Colonies, "[A]t one time my Government had the idea of endeavouring to reach them [the whiskey traders] through the instrumentality of the American authorities. . . ." The Canadians would permit the U.S. cavalry to cross the border in "hot pursuit," thus letting the Americans, in effect, police the area. Lord Dufferin continues, however, that "this notion was wisely abandoned and [we] now are organizing a Police Force of 300 mounted Riflemen under an artillery officer named Colonel French."

The original plan was dropped when Canadian authorities realized that proponents of Manifest Destiny, particularly in Minnesota, already were identifying the American whiskey traders as vanguards of northern expansion. The use of American cavalry on Canadian soil was a frightening thought and, while it might not have resulted in a direct American takeover, the chances were too great to be ignored

Instead, a Canadian troop, consisting largely of former British soldiers and young Canadians, was raised in Ontario, Quebec, and the Maritime Provinces during the summer of 1873. Envisioned as a "North-West Mounted Rifles," a military body with police powers, the proposed troop came under heavy criticism from Washington when the rumor was spread that it would protect the frontier from American encroachment. Before the act reached Parliament, the prime minister stroked his pen through the word "Rifles" and wrote "Police," and the North-West Mounted Police was born. At the same time, proposed military ranks were replaced by the innocuous titles of "inspector" and "sub-inspector," and the lowly private became a "sub-constable."

The choice of uniform was strategic, since Plains Indians distrusted both the blue of the American cavalry and the dark green of the Provisional Battalion stationed in Manitoba. "We know that the soldiers of our Great Mother wear red coats and are our friends," an Indian told a government official, so a scarlet tunic with grey breeches and a white cork helmet became the original uniform, based upon the garb of the British dragoons. Later changes gave the Mounted Police a uniform better suited for the western frontier, but the scarlet color remained for years a symbol of the Queen's justice.

Late in 1873, the first contingent of 150 Mounted Police was sent via boxcar, steamer, and cart to Winnipeg, Manitoba, the jumping-off point for the Canadian prairies. In the following year more recruits arrived, bringing the total force to 300 officers and men. Many had been in the regular British army, while others were from well-to-do families. The heir to an Irish baronetcy, a poetic sailor, an artistic doctor,

"We know that the soldiers of our Great Mother wear red coats and are our friends," said the Indians. "They have protected us as the feathers of a bird protect it from the frosts of winter." Here a slightly fragmented thin red line stands at attention during spring drill at Regina headquarters in about 1890. The pair of heavy field pieces (at right) saw active service in the 1885 campaign against Riel and his rebels.

Swagger sticks at the ready, six staff sergeants—famous for stern leadership—pose with their unimpressed mascot.

and a son of author Charles Dickens were among the original members. Many were idealistic, and all seemed to share the belief that they had a duty to carry the flag of Empire and Queen into the wilderness.

Gathering at temporary quarters south of Winnipeg, the Mounted Police set out on July 8th, 1874, for the great West. Ahead of them lay nine hundred miles of open prairie inhabited by buffalo herds, hostile Indians, and whiskey traders. The latter were rumored to be at least five hundred strong.

The procession was an impressive one, consisting of 318 recruits and officers in their bright new uniforms, four pieces of antiquated artillery, 73 wagons, 114 Red River carts, 235 cattle, and a number of remounts. Before the first mile had been completed, thirty-one constables had deserted and two officers were fired, but the Mounted Police were glad to weed out the weaklings before the trek was underway. Of the several possible routes to the West, the one they had chosen was the worst. Ignoring the established traders' and buffalo hunters' trails, which touched the best watering places and grazing areas, the Mounted Police set out in a straight line across the prairies. Keeping a few miles north of the international boundary, they headed across the bald prairies during one of the driest seasons on record. Half-breed guides warned them that water was hard to find even on the well-used trails, and that to make their own was sheer idiocy.

The Mounted Police, knowing that British engineers who had surveyed the boundary had left caches of grain and feed along the border, thought these would supplement their own meagre supplies. But as one weary day followed another, the lack of water and forage, and the scorching heat, took its inevitable toll of unacclimatized men and animals. After two weeks on the road the expedition was in serious trouble.

Journal entries reflected the problems:

July 18th—Horses gave out all along the way. . . . Wagons far behind. The oat supply almost gone.
July 19th & 20th—Two days of rest at the Souris. Many horses so exhausted they were unable to proceed. Two more horses left behind and two died.
July 21st—Weather oppressively hot, and horses continually playing out. Six men and an ox-cart left behind to bring on such played-out horses as they could. . . . Fifteen sick horses failed to reach camp."

By this time the Mounted Police had covered only a quarter of their journey, and word had leaked back to eastern newspapers of their terrible plight. Rumors were spread that men were dying like flies, but even the most exaggerated accounts had elements of truth. The acquisition of supplies from one of the boundary commission caches on July 22 gave temporary relief, but by the time the force had reached Roche-Percée, a prairie landmark, everyone was in need of a rest. At this point, Commissioner French decided to split his expedition into two groups, one to go north into the woodland area to establish a base at the Hudson's Bay Company post of Fort Edmonton, the other to stay with the impossible prairie route.

A five-day rest amid ample grazing and water impoved the condition of livestock and the morale of the men. On July 29 the best horses were taken for the southern march while the weaker ones were left for the Fort Edmonton expedition. The commissioner believed, correctly this time, that water and feed would be no problem in the woodland region. Although few of the weakened horses and cattle died along this northern route, the worst were left at the trading posts which dotted the trail.

The real ordeal faced the expedition which stayed on the prairies, following an imaginary line on a map. With bureaucratic stupidity, eastern officials believed a straight line was the shortest and fastest distance between two points, and accordingly Commissioner French was ordered not to deviate from it. For the next two weeks the expedition struggled across difficult terrain, spending hours dragging the useless artillery up steep coulee banks. For a few days cool weather provided some relief, but the shortage of water and forage continued to take its toll of the livestock. The men, too, showed signs of strain. They could not afford to be choosy about the water they drank—at one point an officer described the recruits as "standing in a swamp till enough water ran down over the soles of their boots to get a drink." Consequently, as many as two dozen a day were on the sick list, suffering from dysentery and assorted ailments.

A few days past Wood Mountain, supplies of oats were replenished from boundary commission stores, and a "cripple camp" was established where seven sick men and twenty-six horses were left in the care of a constable while the rest of the force plodded on. But these adjustments did not alter the pressing fact that the expedition was in trouble. It entered Cypress Hills hunting grounds of the Blackfoot, knowing that if that tribe was hostile, the Mounties would be in no condition to oppose them.

By mid-September after penetrating deep into a prairie area that had been grazed over by buffalo and burned over by Indians, Commissioner French was forced to alter his route or face calamity. His men had marched more than nine hundred miles, lost dozens of horses, and scattered equipment and supplies over much of the West. By now, ice was covering prairie ponds in the early morning, and September snowstorms, not unknown in that part of the country, were a new and threatening possibility. Reluctantly, the commissioner directed his party southward to the Sweetgrass Hills, whose tree-clad slopes could be seen in the distance. There, on the banks of Milk River, the exhausted band found relief from the unrelenting prairie—for a few days. When the commissioner rode to Fort Benton, Montana, to telegraph news of his situation to Ottawa, he was ordered back to Manitoba with two troops to set up headquarters at Swan River, while Assistant Commissioner James F. Macleod was told to take the rest of the men to establish a prairie post in Blackfoot country.

By this time, almost every whiskey trader in the country knew that the crazy Mounted Police were traveling overland, leaving a trail of dead horses behind them. No one was surprised, therefore, when Macleod and his men reached Fort

"Mainten le Droit," which might be translated to "maintaining law and order," was the motto of the North-West Mounted Police. They also observed the rites of royal passage. Here in Calgary in 1901 a mounted escort in full finery (or in "full fig," as the British might have put it) awaits the Duke and Duchess of Cornwall and York.

Whoop-Up on October 9 and found it almost deserted. Everyone but the post manager and a couple of prospectors had returned to Montana. Fortunately the fear of a clash with desperadoes proved groundless; in fact, as the Mounted Police moved on to build their own post, called Fort Macleod, they began to employ some of the men who a few weeks earlier had been a part of the illegal trade. Even the much-feared Blackfoot, who had watched their every move, greeted the easterners as friends.

The great trek of the North-West Mounted Police was over, and law and order had come bloodlessly to the Canadian West. The trek became *the* heroic episode in the history of the Mounted Police, and the men were later proud to have taken part in the Great March. Even during the expedition some of them realized they were making history. The poet-constable probably reflected the idealistic thoughts of his comrades when he wrote of "the gallant few who marched with spirits high."

The trek, foolish as it may have been, was a reflection of the Mounted Police and of an attitude which was to figure in their later successes. A man accustomed to the country would have taken a well-worn trail; he would have known where to find water and where to feed his stock. His animals would not have starved and died, nor would his men have arrived looking like bony derelicts. In short, a western man would have been wise to the ways of the country. But this same man would have known that the untamed West was ripe for exploitation. He would have known that the white frontiersman was superior to the cunning and treacherous Indian and sometimes had to slaughter his red "brother" to keep him under control.

On the other hand, the greenhorn Mounted Policeman, who couldn't find a decent trail across the prairie, had the naive notion that Indians were subjects of the Queen and were governed by the same laws as everyone else. An idealist, he saw himself as a protector rather than exploiter of the new land and its people. His sense of British justice prevailed, and before he could absorb the prejudices of the frontier, his own methods turned out to be the best.

Once in the West, the Mounted Police set to work to wipe out the last vestiges of the whiskey trade. When they learned of men operationg a small post at Pine Coulee, a patrol was sent north to arrest them. Among the prisoners was a prominent Montana merchant, J. D. Weatherwax, who received a stiff fine and jail term. An indignant *Fort Benton* (Montana) *Record* protested, "Wherever the English flag floats, might is right, but we had no idea that the persons and property of American citizens would be trifled with in the manner that American merchants have been."

Unimpressed, the Mounted Police sent out another party in frigid February weather to gather in more "American merchants" who were operating whiskey posts southeast of the present city of Calgary. The Hudson's Bay Company, having lost most of its prairie trade to the whiskey peddlers, had dutifully given the Police full details about the location of the forts.

By the time the winter had passed, the Mounted Police had proved they were no longer greenhorns, and that they were in the West to stay. The leaders of the Blackfoot nation had come to the fort, listened to Assistant Commissioner Macleod's words about one law for Indian and white man, and believed him. By the spring of 1875, the whiskey trade was ended, intertribal warfare had all but disappeared, and no one was afraid to travel alone anywhere in the land.

Coming as they did, prior to large-scale white settlement, the Mounted Police were able to live up to their motto, "*Maintien le droit.*" Timing was perhaps the greatest reason for their success; in the American West settlement usually preceded law, and violence often became a way of life. In the Canadian West, on the other hand, the Mounted Police arrived while the land was not yet unsettled. They made peace with the Indians and smoothed the transition from wilderness to civilization after the buffalo were exterminated and railroads were built.

So great was the influence of the Mounted Police that when the warlike Blackfoot came together in 1877 to negotiate a

"Handsome, gigantic, brave, and wicked" was how trooper Roger Pocock, seen here in 1886, described the Mountie hero of his novel, The Blackguard, **published in 1888.**

"Almost every whiskey trader in the country knew that the crazy Mounted Police were traveling overland, leaving a trail of dead horses behind them." This sketch was one of a series by Henri Julien, who accompanied the Mounties on the "Great March" west in 1874.

Off duty, these Fort Walsh troopers went informal with a vengeance, exchanging their proud red coats (left) for even more colorful getups (right).

treaty with the Canadian government, they signed specifically because of the redcoats. Crowfoot, a great chief of the nation, said to the treaty commissioners,

If the Police had not come to the country, where would we be all now? Bad men and whiskey were killing us so fast that very few, indeed, of us would have been left today. The Police have protected us as the feathers of the bird protect it from the frosts of winter. I wish them all good, and trust that all our hearts will increase in goodness from this time forward. I am satisfied. I will sign the treaty.

Although the Canadian frontier seemed dull compared to its American counterpart, the work of the Mounted Police often was thrilling and dangerous. The feat of a handful of men who controlled Sitting Bull and his entire hostile Sioux camp after they took refuge in Canada was an epic in itself. Superintendent J. M. Walsh and his small garrison at Fort Walsh wandered freely among the recent arrivals from the Custer battle and carried out their duties as though they were dealing with any ordinary band of Indians. Horse thieves were arrested, travelers protected, and the Sioux informed that they must abide by the Queen's law if they wished to remain in Canada.

"Now that you are in the Queen's land," Assistant Commissioner Irvine told them, "you must not cross the boundary to wage war against the Americans. We will allow you ammunition to hunt the buffalo for food, but none of it is to be used against white men or Indians. In the Queen's country we live like one family. If a white man or an Indian does wrong, he is punished." In reply, Sitting Bull promised to obey the law and to keep his people away from the Americans. He tried to keep his word, and although a few minor incidents occurred, the Sioux remained peaceful until the last band surrendered to the American army in 1881.

During the next several years the bond of friendship between the Mounted Police and the Indians made possible peaceful settlement of the West. The Indians had their suspicions and grievances as railroads brought homesteaders and ranchers to their hunting grounds, but except for the Riel rebellion of 1885—caused by the government's ignor-

ing the just claims of half-breed settlers—the difficult years were remarkably free of violence.

Even the Klondike gold rush of 1897–98 was a bloodless invasion. Whereas almost every other gold strike in the world had been accompanied by murder and violence, the Canadian bonanza was relatively peaceful. Patrolled by Mounted Police who arrived in the Yukon before the gold rush, the prospectors, most of them American, were willing to abide by the Queen's law. The sagas of dog patrols, crazed miners, and resolute redcoats helped the reputation of the force and resulted in the prefix "Royal" being added to their title in 1904. Fourteen years later, when their jurisdiction was extended to all of Canada, they became the "Royal Canadian Mounted Police."

By this time they had their history and their legends. They had become romantic figures in the eyes of many and almost supermen to admiring young boys. In later years the Mounted Police were embarassed by some of the stories, which caused one member to wonder "what the films and the cheaper fiction magazines would do without those soul-stirring dramas of the Mounted Police."

Yet the legend was largely of their own creation. Not only did their western trek become a heroic march, but members and ex-members were first responsible for creating the fictional, stereotyped "Mountie." They began with poetry, often written as eulogies to departed members of the force. In 1874, when the first Policeman died, a fellow constable wrote the poem, "On the Death of Parkes of F Troop." Five years later, Constable T. T. A. Boys wrote "The Riders of the Plains" in tribute to departed members buried at Fort Macleod. This was published in newspapers and magazines all across the country until the title became synonymous with the Mounted Police.

But this was only the beginning. Although the Mounted Police had received passing mention in two novels by J. E. Collins, *The Story of Louis Riel, the Rebel Chief* (1885), and *Annette, the Metis Spy* (1886), ex-members of the force were among the first to create the fictional Policeman hero. Roger Pocock began the trend in 1888 with his *Tales of Western Life*, followed by a number of others including *The Blackguard*, a novel about a trooper who was "handsome, gigantic, brave and wicked," and a romantic short story, *A Trooper in Love*.

Not to be outdone, another former Mounted Policeman, John Mackie, produced a number of novels in which Policemen were central figures. His first, *The Devil's Playground* (1894), featured a constable who was "a good-looking fellow enough, with an alert, pleasant, open face that was tanned by the sun and wind." Mackie's second work, *Sinners Twain*, which was published in the following year, dealt with Mounted Police life in the Cypress Hills and had a romantic plot which included a lovely half-breed girl, a young Policeman, and an unpopular officer.

Other writers were quick to discover the appeal of the Mounted Police theme, and soon a number of other novels appeared. *Pierre and His People*, by Gilbert Parker, published in 1897, portrayed the Policeman as a stern disciplinarian who faced danger without fear, while Ralph Connor's *Corporal Cameron* was a steely-eyed hero protecting innocent settlers from thieves and gamblers.

After the turn of the century, the Mounted Police appeared in many forms of fiction, including dime novels, boys' annuals, adult magazines, comic books, and series such as *Sergeant Silk, Boys of the Royal Mounted Police*, and *King of the Royal Mounted*. During these same years, the Police also were being popularized by artists like Frederic Remington and Charlie Russell. Russell in particular was impressed with the Mounted Police whom he first painted from life in 1888. In later years, such works as "Single Handed" (1912), "Caught With the Goods" (1913), and "Queen's War Hounds" (1914), helped to establish the legend of the force.

By the time the motion picture industry was born, the Mounted Policeman already was stereotyped. Hollywood added its own cliches but contributed little else until 1935, when the sight of a red-coated Nelson Eddy warbling "Rose Marie" to Jeanette Macdonald added a new dimension to the legend. The picture became fixed in the minds of people throughout the world thus firmly establishing the "Mountie" as a romantic hero. In the year it was released, a Mounted Policeman on official business in New York was mobbed when he appeared on the streets in his scarlet uniform. Crowds milled about him; an entertainer wanted to sign him up for a singing contract (in uniform, of course); even one of New York's finest stood transfixed as his colorful brother crossed the busy intersection. On later excursions from his hotel, the Mounted Policeman was obliged to go "in an attire less calculated to create traffic jams."

Some Mounted Police of today may curse this image, others may praise it, but the legend is here to stay. Tourists now expect to see a red-coated Policeman at the border, and new recruits often enter the force because of its romantic traditions. The Royal Canadian Mounted Police is a modern efficient national body, but the legend goes on. The latest fictional hero is *Dale of the Mounted*, who carries on the noble tradition by fighting spies at the United Nations and saboteurs at the Chalk River atomic energy plant. He may be modern, but he is still a steely-eyed hero—honest, courageous, loyal, and true.

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SAM BASS & The Myth Machine

"A Kinder-Hearted Fellow You Seldom Ever See."

BY HELENA HUNTINGTON SMITH

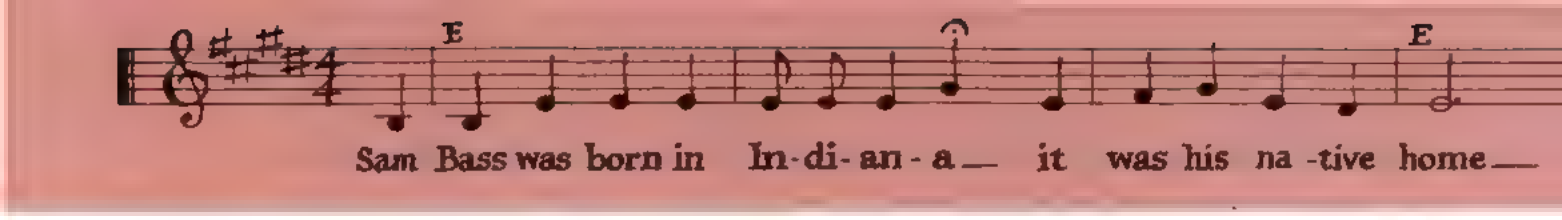
Sam Bass at about the age of sixteen.

At Big Springs, Nebraska, a few years ago, state dignitaries dedicated a marker in honor of the most famous exploit of Sam Bass: the holdup of a train and the theft of $60,000 in new twenty-dollar gold pieces being shipped from the San Francisco Mint. "Near here," says the marker, "on the night of September 18, 1877, the legendary Sam Bass and five companions, after capturing John Barnhart, station master, and destroying the telegraph, forced Union Pacific express train No. 4 to a halt." The trouble with the inscription is that it only half true. Sam Bass was merely a member of the gang who pulled the holdup. The leader was Joel Collins, a Texas cowboy and trail driver gone wrong, but all Joel gets is a mention toward the bottom of the marker as one of Sam's "companions." Thus does hindsight alter the face of history.

For weeks after the robbery, the Kansas and Nebraska papers were buzzing with the exploits and history of Collins (gunned down eight days later as he was trying to make a getaway). Joel was well known to the Texas cowmen who were crowding the cowtown hotels at that season, and they were only too happy to enlighten the press as to his character and reputation. But Sam Bass was mentioned only twice, in the smallest type, and then because of a momentary confusion of identity with one of the dead bandits. The fact is that at the time of his biggest exploit nobody had heard of him except for a few irate railroad officials. Ten months later, however, Sam was dead, shot by Rangers in Round Rock, Texas, as he was preparing to rob the Williamson County Bank, and in no time at all cowboys all over the Southwest were soothing their cattle at night by singing "The Ballad of Sam Bass."

A remarkable little book called *A Sketch of Sam Bass the Bandit*, by Charles Lee Martin, was published anonymously in Dallas two years after the death of Bass. Rescued at last from near-oblivion, it was republished in 1956 by the Oklahoma University Press with an introduction by Ramon F. Adams, the distinguished bibliographer of the West. "Sam Bass," he observes, "was not much of an outlaw as outlaws go." But if Bass was "not much of an outlaw," how then did he rise to one of the topmost niches in the Outlaw Hall of Fame?

A few years ago, while working on a book in the Powder River country of Wyoming, I became aware of a force for non-history which I nicknamed the "Myth Machine." Why, I wondered, did the tall tales and rumors which flourish in the West seem to gather around some names more than others—names like Jesse James, Billy the Kid, Nate Champion, Butch Cassidy, and Sam Bass? Did such myths simply bubble up from the wishful-thinking depths of the collective



unconscious? Perhaps the myth machine was fueled by credulity and emotion; by the longing for a Robin Hood; by the urge to be in on the act; by old men's expansive memories; and by hatreds—the hatred of the poor for the rich, and the rich for the poor, or such hatreds as the terrible postwar bitterness in Missouri, which helped to make a hero of Jesse James.

Out of something like this grew the legend of Sam Bass and his apotheosis as one of the Great American Outlaws. The actual chronicle of his short career is something else: he was a badman who may or may not have killed just one man; he was a singularly inept and unlucky robber; and ultimately he was the victim of his own gullibility, brought down by a remarkably transparent quisling. None of it counted. As Frank Dobie once remarked: "What happened doesn't matter. What people like to believe does."

He was born on a farm near Mitchell, Indiana, in 1851. Orphaned early, he left home at eighteen and wound up in Denton, Texas, a year later. He could barely sign his name.

In Denton he went to work for Sheriff William F. ("Dad") Eagan, the same who would be shooting at Sam Bass the outlaw eight years later. For four years he was a plain hired hand and teamster, so thrifty and conscientious that he earned the nickname "Honest Eph." To the end of his career he was referred to by his cronies and himself as "Honest Eph" or "Old Eph" or "your uncle Eph."

But in 1874 something happened to change this paragon. According to "The Ballad of Sam Bass":

He made a deal in race stock and bought the Denton mare.
He matched her in scrub races and took her to the fair.

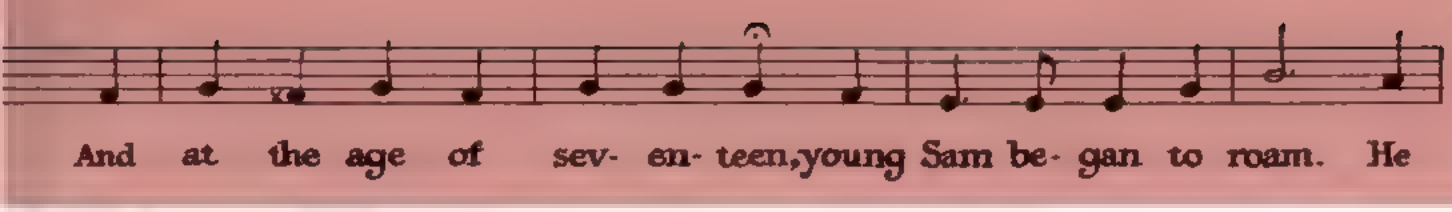
"Dad" Eagan disapproved and told him he would have to choose between the mare and his job. He chose the mare and took her to San Antonio, where he fell into bad habits and bad company, chief among the latter being Joel Collins, the scapegrace son of prosperous and highly respected parents. In 1876, Joel and Sam went into partnership on a herd of beef steers, between five and seven hundred head, and drove them to Dodge City. Instead of selling there, however, they went on to the booming Black Hills, where Sam's fall from respectability was complete. They spent nearly a year there robbing stages, but the pickings were slim and they were beginning to arouse suspicion; so in August, 1877, they decided to head south and tackle the Union Pacific. There were four besides themselves—Bill Hefferidge, Jim Berry, Tom Nixon, and Jack Davis.

It was 10:48 on the night of September 18, and a bright moon was shining on the little water-station of Big Springs when they overpowered the station master and forced him to hang out a red lantern to stop the coming express. As it slowed, they climbed on board, and four of them made prisoners of the three-man crew while two others entered the express car. They had no trouble getting about four hundred and fifty dollars out of the "way safe," but they were not after chicken feed. Charles Miller, the express messenger, was unmercifully beaten around the head and face with a pistol in an effort to get him to open the "through safe," which he could not do because it had a time lock and could only be opened in Ogden, Cheyenne, or Omaha. The others, meanwhile, hacked with axes at some heavy boxes on the floor of the express car, and gold coins rolled out—the shipment from the San Francisco Mint. They then turned their attention to "taking up a collection" from the passengers and had obtained around fifteen hundred dollars when the approach of a freight train frightened them away.

After leaving the holdup scene, the gang split up into twosomes to avoid attracting attention. Sam and his companion, Jack Davis, made a trade for fresh horses and a buggy; and with the gold in the bottom of this humble conveyance, they proceeded on their way, just a couple of drought-poor homesteaders from western Kansas going to look for better times in the eastern part of the state. At least once soldiers stopped them to ask if they had seen "two men on horseback, with Winchesters, leading a packhorse." They are even said to have camped overnight with the soldiers. But who was going to "suspicion" a pair of old broken-down farmers driving an outfit like that? They were home the first of November.

Those gold double eagles soon had everybody's eyes popping, but Sam told how he had struck it rich in the Black Hills and had traded his dust for coins, a plausible enough tale for the times. After his taste of high life, Sam was not ready to settle down, and he recruited two old Denton friends, Henry Underwood and Frank Jackson, as followers. On the night of December 21 they held up a stage nine miles west of Fort Worth. There were only two passengers and all they got was forty-three dollars, evidence that Sam was a good deal of a stumblebum as a highwayman. Another attempt near Fort Worth on January 26 was more successful, netting them $400 and four gold watches. The effort apparently bolstered Sam's confidence, for he now decided to go after trains again.

With some new recruits in his gang (robbing trains was big business), he committed four railroad holdups between Feb-



ruary 22 and April 10, 1878. Only the first one paid anything —about $1,300. Worse yet, the robbers must have been nervous or drunk because on two of these occasions they missed sizable sums of money which quick-witted express messengers had hidden.

By this time, Texas was buzzing like a hornets' nest. The names of Bass and his confederates were published in the papers, and there was a rising clamor for Governor R. B. Hubbard to send in the Rangers. Finally, the governor ordered Major John B. Jones of the Frontier Battalion of the Rangers to take charge. The diminutive major had the drooping mustache and slitted eyes of the prototype frontier lawman, and the know-how to match. His first act was to commission a young and able Dallas peace officer called Junius Peake as lieutenant in the Rangers, with orders to recruit a special company. What the press called the "Bass War" was on.

It was during the crowded weeks of the Bass War that Sam became the stuff of legend. All the makings were there: the long chases, the narrow escapes, the sudden appearances and even quicker disappearances, the largess with money, the occasional act of spectacular daring (or stupidity), and, finally, the betrayal at the hands of a friend. If such were enough to canonize a genuine scoundrel like Jesse James, it was more than enough to lift the relatively mild-mannered Sam to the level of folk hero, if not quite sainthood. Like nearly everything else about his story, however, the Bass War and its melodramatic conclusion lose a good deal in the translation from myth to reality.

Sam's success in eluding capture for as long as he did can be attributed less to his own cleverness than to the incompetence of his pursuers and the difficulties of the terrain.

On one or more occasions there were in the field one hundred and fifty Denton County citizens organized into posses under Sheriff Eagan, together with Ranger companies and another big posse from Grayson County. Sam had only his four lieutenants, some younger now-and-then followers, and himself. Why couldn't he be caught? A Dallas newspaperman explained one reason:

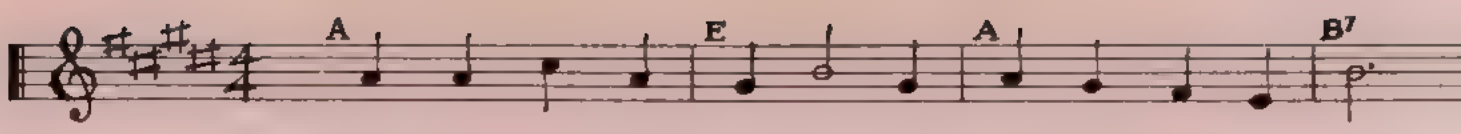
> So many sheriffs and deputy sheriffs and detectives and amateur officers of the law had become inspired with a greed for the rewards offered for Bass and the rest of his crowd that they must needs fill the woods with little posses armed with pot metal shot guns and mounted on spavined ponies to go chasing up and down the Cross Timbers shooting at one another, that there never was a chance to lead Bass into a trap

As for geography, the country where Sam was hiding was a jungle: a choking tangle of brush and briars, vines and rotten logs; of swamps and lagoons; of steep drop-offs and limestone caves, overarching trees and "bottoms," where it wasn't daylight until midday, as a city reporter somewhat nervously noted. All this was inhabited by a huge population of rattlesnakes and a small one of poor squatters uniformly friendly to Bass, who himself knew "every cow path and pig trail" and could disappear at will.

The first skirmish took place on April 29 at Cove Hollow. Bass and Company were at Jim Murphy's house on one lip of the gulch (a steep chasm with heavily timbered sides), and the opposition was five hundred yards away on the other. In spite of the distance, the encounter nearly did in Sam. A member of Captain Lee Hall's Ranger company, a crack rifle shot, scored off Bass twice, once hitting his cartridge belt and the second time splintering the stock of his rifle. "Hell, boys, they've hit me at last," Bass yelled. "Let's get out of here."

Taking advantage of a lull, Bass and his men cleared out far to the westward of their usual haunts, to spend a couple of peaceful weeks camping among the cedar breaks and gorges of Stephens County. But it doesn't take a psychoanalyst to discern that peace was the last thing Sam really wanted; before long he went roaring back into the towns, making such a big splash with his gold pieces from the San Francisco Mint that the posses were soon after him again. After being "surrounded" a couple of times, he dodged back to Denton County and some unfinished business. Very early on the morning of June 6 the gang rode into the heart of Denton town to Work's livery stable and demanded the return of horses captured from them earlier. When the stable keeper demurred, Frank Jackson clubbed him over the head with his six-shooter until Bass interfered. They recovered the horses and left, with one of them shouting: "Damn 'em, we'll show 'em they can't steal anything from us that we can't get back!"

This brazen performance touched off a wild three-day chase, with the bandits finally escaping. Next came Wise County and a disaster at Salt Creek that splintered the gang. Somehow, the Bass crowd and Junius Peake's Rangers found themselves facing each other. In the firing, "Arkansaw" Johnson fell stone dead. Every horse was killed or captured except one that Henry Underwood managed to seize for a getaway. Underwood had had enough, and Bass never saw him again. Two young followers were also fed up. A lad named Charles Carter, sick and sore of the bandit life, crept home to his family, and Joe Collins (not to be confused with Joel Collins, Sam's original partner in crime) quit the first chance he got.



Everybody had had enough, except Barnes, Jackson, and Sam Bass. Afoot, their horses gone, the survivors crept down through the tangled undergrowth of the creek bank and into a washout at the water's edge, where they hid until dark. That night they stole more horses and kept on going. Sam Bass never knew when he was beaten.

There are marked similarities between the legends of Jesse James and Sam Bass. Alongside the Robin Hood theme runs the theme of Betrayal, a sure passport to Valhalla: "The dirty little coward that shot Mr. Howard/Has laid poor Jesse in his grave." On April 2, 1882, "poor Jesse" got up on a chair to straighten and dust a picture, and while he was engaged in this domestic act, Bob Ford all but blew off the back of his head. No power on earth could have halted the apotheosis of Jesse James after that.

The betrayer of Sam Bass never pulled a trigger. What he did do makes a shot in the back look forthright by comparison. He concocted and carried through a long-drawn, consistent scheme of betrayal; a sneaking, two-faced double cross which stuns the conventional mind. Only Shakespeare would have dared to invent Jim Murphy.

During the Bass panic which swept Denton in the spring of 1878, there was a flurry of arrests, and a good many innocent citizen were swept up in the dragnet, including Murphy's father, Henderson Murphy. On May 1, Jim himself was arrested on a charge of harboring Sam Bass. He was promptly removed to Tyler on a federal warrant and indicted as an accessory to robbing the United States mails. This scared him, evidently. In the words of his sworn statement: "I hereby certify that on 21st of May, 1878, whilst in Tyler for trial as an accomplice of Sam Bass and other train robbers, *I proposed* [italics added] to Major John B. Jones that I thought I could assist at the capture of the Bass party by joining them and putting them in a position where they could be captured." In other words, the whole business was his own idea. He also showed a definite interest in the reward. On the same date, the deal was closed in a written agreement with the U. S. district attorney, Andrew J. Evans, and a day or two after that Jim jumped his bond, with the connivance of the four officials, and went home to wait for Sam Bass.

On June 15 Bass and Jackson made it back from the disaster at Salt Creek and came by Murphy's house.

"They shook hands with me and took on over me terribly," Murphy reported later. "Bass said to me, 'Well, old fellow, how do you like to play checkers with your nose? . . . That's nearly hell, ain't it, Jim? Well, old fellow, you had better come and go with me, and you won't have to play checkers with your nose.' " (The reference was to the checkerboard of shadows made by the cell bars of a jail.)

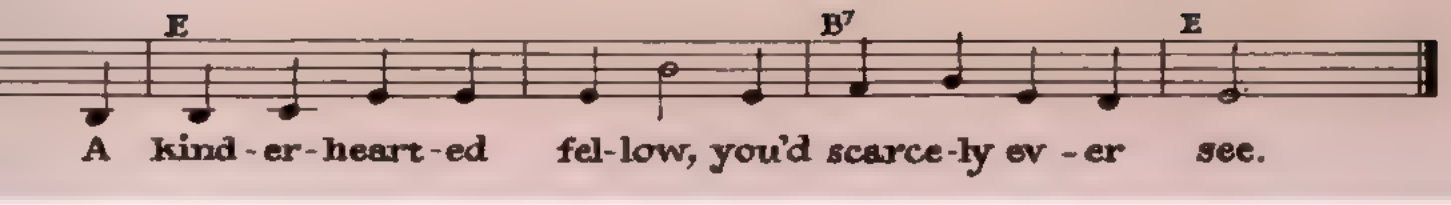
Murphy played hard-to-get but finally let himself be persuaded. Barely two days' ride out of Denton, Murphy had a close call. Someone had all but spilled the beans by sending a telegram—not a sealed letter, mind you, but a telegram—to a banker in Fort Worth, apprising him that Jim Murphy was going to decoy Bass into a bank robbery in order to trap him. Naturally, the word got out, and by the time Bass joined Seaborn Barnes at the latter's camp, two visitors had already brought the news. Seab, raging, was for killing Murphy on the spot.

But Frank Jackson defended him hotly; Murphy protested that his deal at Tyler had been a ruse so he could get out and join his friends; Bass swung back and forth. ("I don't know how to fix that up under my hair.") He decided for Murphy; but the same fight broke out again among the three of them a few days later, and Murphy just missed being shot through the head while he slept. Once again, however, Jackson prevailed. As for Sam, once he had made up his mind twice, it was the end of it. Nothing more thoroughly reveals the sunny good nature of this lost sheep than the fact that he was incapable of nursing a suspicion.

Sam apparently never got over his notion that robbing trains and banks was a form of sport, for Murphy reported that he clowned around camp. "Now boys," he once exclaimed, "if that old tree was some old banker, I'll show you how I'd serve him, all right. I'd jerk out my pistol and slip up to him this way and jab it into his countenance. 'Throw up your props, Cap! Hurry up, old man, we are in a hurry.' " This had them all in stitches, but when they found an old unused gallows near their camping place one night, it gave "Eph" the shivers. "That is the first one of them things I ever saw, and I hope it will be the last." It was.

At Waco, Murphy had another bad fright. To the rest of them, the bank there with its quantities of gold and greenbacks in plain sight looked like a perfect setup, and they were all for "pulling" it right then. But if they had, Murphy would not have had time to send the word; he sweated with inner anguish while unsuccessfully trying to talk them out of it. That night in camp, Sam noticed that his friend was in the dumps, and misunderstanding the cause, tried to cheer him up. "Hell, Jim, hold up your head. Keep in good spirits. I will get you some money after awhile."

Next morning though, Bass suddenly gave in; apparently



not because he was convinced Jim was right, but merely out of simple good nature. "Well, Jim, if you think there is too much danger here at Waco, we will not hit it. We will go wherever you say."

They went to Belton, a short day's ride to the south, and on the afternoon of the same day, July 13, Murphy went to the post office and directed a letter to Sheriff Everheart of Grayson County and/or Deputy U. S. Marshal Walter Johnson, "telling them that we were on the way to Round Rock to rob the bank or the railroad and begged them for God's sake to be there in time to prevent it," he said later. At the next stopping place, in Georgetown, almost on the outskirts of Round Rock, he wrote again, this time to Major Jones in the state capital at Austin, telling him "that unless he did come I would have to help them rob the bank or a train or they would kill me and begged him to come for God's sake."

After they reached Round Rock on the evening of Sunday, July 14, all went merry as a marriage ball. Next morning, the fastidious highwaymen went into town to look at the bank, liked it, and got a shave. The only trouble was that there was some talk of stealing fresh horses and pulling the job right away. Murphy, playing for time, counseled them against the risk of stealing horses, since it might draw attention, and urged that they take a few days to rest their own horses instead. By this time, they all trusted him implicitly, even Barnes. After talking it all over, they fixed on the following Saturday afternoon, July 20, at 3:30 P.M. "All right, boys," Bass said. "She goes."

By Thursday afternoon Murphy's last message had done its work, and Round Rock was filling with Rangers. When they took a ride into town, the gang noticed these men a bit uneasily, though they wore ordinary cowboy dress. On the afternoon of Friday they rode in again, to buy tobacco. Jim Murphy did not go all the way with them, but slyly lingered in the lower town on some pretext.

The other three went on in and tied their horses in an alley. Bass wore his gun under his coat, where it made a slight bulge. A Travis County deputy sheriff named A. W. Grimes noticed the bulge and asked Sam if he didn't have a gun. According to one tradition, Sam replied: "I'll let you have it," and he, Barnes, and Jackson fired at once. Grimes fell dead, and the town exploded with gunfire as the robbers fought their way back down the alley to their horses. Before they reached them, Seab Barnes was shot through the head and killed instantly. Bass, less lucky, received a body wound. He and Frank Jackson left town together, with Jackson holding him on his horse.

A few miles out of town, too weak to ride any further, Sam insisted that Jackson leave him and save himself. He lay all night under a live oak tree, and was found next day by a searching party of Rangers.

"Don't shoot," he said, holding up his hand. "I am helpless. I am the man you are looking for. I am Sam Bass."

Jim Murphy completed his assignment and earned his cash by going with some Rangers to the spot and identifying Bass —from behind a tree.

Bass was moved to an empty shack in the town and laid on a cot. There is no mythology connected with his last hours, since Rangers sat continually by his side, giving him little peace as they plied him with questions and wrote down the brief, disjointed answers in a notebook. He was suffering extreme pain. Major Jones wrote later: "I tried every conceivable plan to obtain some information from him, but to no purpose. About noon on Sunday he began to suffer greatly and sent for me to know if I could not give him some relief. I did everything I could for him." The major then improved the occasion by trying again to get him to talk about his colleagues. The answer was: "No, I won't tell."

"Why won't you?"

"Because it is ag'in' my profession to blow on my pals. If a man knows anything he ought to die with it in him"—words thenceforth engraved on the memory of Texas.

He said something else that deserves to be chalked up. "If I killed him [Grimes], he is the first man I ever killed." (Three bullets were fired, and there was no way of knowing which one found its mark.)

Later in the day, when the doctor told him it would not be long now, he said: "Let me go." A few moments later he opened his eyes and exclaimed: "The world is bobbing around me." He died at 3:58 on Sunday afternoon, July 21, 1878, on his twenty-seventh birthday.

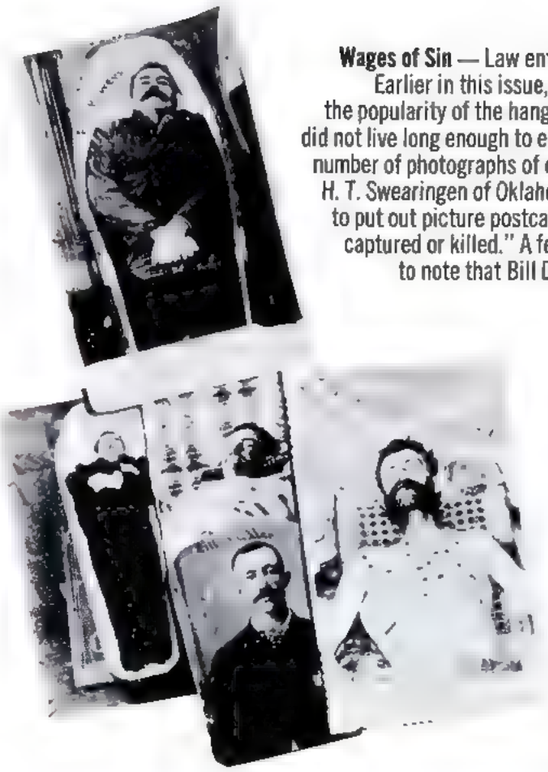
He was buried in Round Rock. The original stone over his grave has long since been chipped away and replaced, but tradition recalls that it bore the following inscription:

A BRAVE MAN REPOSES IN DEATH HERE
WHY WAS HE NOT TRUE?

Helena Huntington Smith *is author of* The War on Powder River *(1966), a study of the Johnson County "invasion," which received the 1967 Buffalo Award of the New York Westerners. Other works include* We Pointed Them North *(1939, 1955) and* A Bride Goes West *(1942). Among her numerous magazine articles is "Rawlins: Profile of a Railroad Town,"* THE AMERICAN WEST, *May, 1969.*

THE QUICK & THE DEAD

The Gunfight — The stylistic imperative of a proper gunfight, as interpreted by many of the popular media today, required that the antagonists face off down a vacant street, striding toward one another grimly before the moment of truth — the draw. In real life, however, style could be sacrificed to the demands of survival — as illustrated by this rare photograph of an actual gunfight in Quartzite, Arizona, in 1904. A careful look at the corner of the fence in the center of the picture will reveal a man's leg; the rest of him is well-covered by the fence. He is using a rifle against his opponent, who — obviously endowed with a stronger sense of style — is out in the open and using nothing but a handgun. The cowardly rifleman fired one wild shot, then ran. It has not been recorded whether he was caught.



Wages of Sin — Law enforcement was fast and frequently final. Earlier in this issue, we presented a small feature regarding the popularity of the hanging bee, but a number of outlaws simply did not live long enough to encounter a rope. There are a remarkable number of photographs of dead outlaws around. One photographer, H. T. Swearingen of Oklahoma Territory, even made it his business to put out picture postcards of "all of the noted outlaws of Okla., captured or killed." A few are shown at the left; it is interesting to note that Bill Doolin (bottom right card) was punctured no less than twenty-one times.

If there is such a thing as a "definitive" dead outlaw photograph, however, our candidate would be the lineup of the Dalton Gang below. The Daltons were gunned down in 1892 while robbing a bank in Coffeyville, Kansas, but not before they had killed a shoemaker, a clerk, a merchant, and the local marshal in a good old-fashioned shootout. The elimination of this particularly murderous gang was an event well worth memorializing, but one thing about the photograph puzzles us — why did the citizens of Coffeyville consider it necessary to handcuff four dead men?

The Peacekeepers — It has long since been recognized, even in the more popular depictions of the western sheriff, that these men were not always all they should have been. Wyatt Earp, for example — seen below in his heyday — was known to wander somewhat loosely from one side to the other of the line. We must assume, however, that the average lawman was more like John R. Bannister (left); tough, wise, and blessed with a granite integrity, he spent nearly fifty years in defense of the law — first as a Texas Ranger, then as chief field inspector for the Texas Cattle Raiser's Association, and finally as sheriff of Coleman County until his death in 1918.

The Oklahoma ROBIN HOOD

BY KENT L. STECKMESSER

"There's many a starving farmer
The same old story told
How this outlaw paid their mortgage
And saved their little home."

CHARLES ARTHUR ("PRETTY BOY") FLOYD (1904–1934) was in many ways the most interesting of the Depression era outlaws in the Southwest. In reality, he was a bragging, overbearing desperado, responsible for the murder of at least four law officers. In legend, he became the idealized hero of a Woody Guthrie ballad, a Hollywood motion picture, and a cycle of Oklahoma folk tales, which all depict him as an American Robin Hood. Indeed, the significance of the Floyd legend lies in its resemblance to those of Robin Hood, Jesse James, and other "good badmen."

Charles Arthur ("Pretty Boy") Floyd.

Floyd was definitely a product of his environment and his times. He was raised in the Cookson Hills of eastern Oklahoma, a region of deep gullies, wild prairie stretches, and oak-studded foothills that merge into the Ozarks. It was a primitive, inaccessible area and thus had been a natural rendezvous for outlaws since the 1870s. Floyd grew up listening to stories of how Jesse James, Bill Doolin, and the Dalton brothers had outwitted the law and escaped to hideouts in the hills. The clannish people there had an inborn dislike of law officers, an attitude explained in part by the fact that many of the families had been moonshiners for several generations. Thus, the bank robber could expect to find refuge with this largely sympathetic population.

Floyd committed his first robbery in 1925, but much of his appeal can be explained by the fact that his career reached its peak during the Great Depression. The sandhill farmers made marginal incomes even in good times, but with all the foreclosures and unemployment after 1929, they hit rock bottom. There are, of course, many reasons why individuals sympathize with the outlaw, ranging from romantic attitudes to paranoid class hatred. But the existence of severe social and economic dislocation has always been the classic matrix of outlaw legendry. The renown of Jesse James is related to the turmoil in post–Civil War Missouri, when there was political persecution of ex-Confederates and economic exploitation by Yankee bankers and railroad barons. Similarly, Floyd won much sympathy because he fought the impersonal "system," run by hard-hearted capitalists who cared nothing for the little fellow. As one newspaper reporter observed in 1934, "The depression was having its demoralizing effect upon society, and many of the destitute admired the boy who could go out and take money from the banks."

Floyd was born on a farm in Bartow County, Georgia, on February 3, 1904. The large family migrated to Oklahoma within a year, and the youth was raised near the little towns of Akins and Sallisaw. The Floyds were honest hill folk, the mother being a diligent worker for the Baptist Church; but the father was illiterate, so his son's economic prospects were

never bright. He got as far as the sixth grade in school but was more adept at squirrel hunting than at reading and figuring. In fact, the Floyds were basically pioneer stock, the kind who had helped conquer the American frontier. Unfortunately, those traits which had been valuable in frontier circumstances were largely superfluous in the twentieth century. So "Charlie" Floyd's biography is in some respects an object lesson in what can happen to a frontiersman with no frontier

He "worked in the sand hills for a cornbread living," as his sister Mary put it. He grew into a chunky, beetle-browed roustabout, who nevertheless always kept his black hair carefully combed. A sociable type, indeed something of a "heller," he enjoyed Choctaw beer and the company of young women —who seemed to find him quite attractive. At eighteen Charley married a farmer's daughter from the town of Bixby, and a son named Jack Dempsey Floyd was born. But the young father was unwilling or unable to support his family by farming in the red claybank around Sallisaw, so in 1925 he followed the harvest north. Instead of staying in the fields, however, he held up a bakery company payroll in St. Louis and netted $12,500 to launch his career in crime.

Floyd returned home and began spending money. An alert marshal hauled him in for questioning, and he was shortly tried and found guilty of the payroll robbery. As Floyd later admitted to a newspaper interviewer, he was "a green country kid that got caught on a job." He was sentenced to five years in the Missouri State Penitentiary and served three before being pardoned, acquiring a real education in crime from hardened fellow inmates.

The Floyd family version was that after Charley came back from prison in 1929, he was "persecuted"—an immemorial explanation of outlawry. According to his wife Ruby, he lost his job with an oil company after being arrested on suspicion of a store holdup His mother, Mrs. Walter Floyd, believed that he was driven to further crimes by constant harassment "Charles has not done one-thousandth of the crimes he has been accused of." What was more important, many of the Cookson Hills people believed that he was just another country boy who had been forced onto the wrong road by the "John Laws."

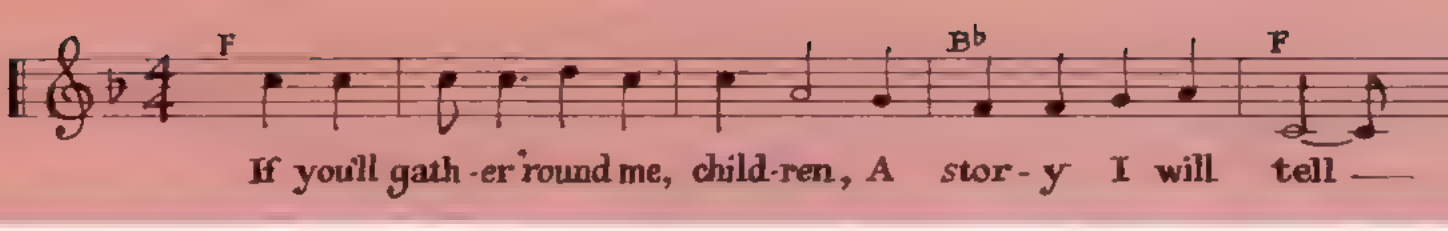
Whatever the real cause—and the historian can only speculate about such matters—Floyd turned to bootlegging and then to bank robbery as a career. He became a cool, unruffled performer who employed modern methods. Outlaws always manage to keep up with changes in technology. Where Jesse James had used horses and pistols, Floyd used Ford V-8s and submachine guns. He was also known to have worn a bulletproof vest and a steel skullcap at times. He cut down the chance of miscues and double crosses by working with only one partner. Like Jesse James, he killed anyone who got in the way, and the records show that he shot down at least four lawmen. Once again, in the classic pattern, Floyd and his friends claimed that all the killings were "self-defense."

Floyd had his close calls, to be sure. In 1930, he was captured and sentenced to fifteen years for robbing a bank in Sylvania, Ohio. On the train to the penitentiary, he smashed a window, jumped out, and escaped. On April 15, 1931, Floyd killed Officer Ralph Kastner in a gun battle on the main street of Bowling Green, Ohio, where Floyd's partner, Bill Miller, was also killed. On July 21, 1931, he shot his way out of a trap in Kansas City, Missouri, where he had apparently been working as a bootlegger. A federal prohibition agent, Curtis Burke, was killed during the encounter, and another agent was seriously wounded

At this time the newspapers began calling him "Pretty Boy," a name which Floyd described as "all a joke anyway." The nickname was apparently pinned on him by the madame of a gangster hideout in Kansas City. To the folks back in the hills, he was always "Charley" or "Choc," the latter being a reference to his taste for Choctaw beer

In 1932, Floyd took as his partner a lanky ex-preacher named George Birdwell. That summer and fall, the two robbed dozens of small banks in Oklahoma and adjacent states. Bank insurance rates in Oklahoma became the highest in the nation. Frantic law officers organized five-hundred-man posses to track Floyd down. But he cut fences and drove across the fields to escape roadblocks and regain his refuge in the hills. A legend of invincibility began to take shape. The hillbilly radio programs started playing a new tune, "Pretty Boy Floyd, the Phantom Terror," which expanded his will-o'-the-wisp reputation. Policemen insisted they had hit Floyd with five or six shots with no apparent effect. The most audacious job of all was the robbery of the Sallisaw State Bank on November 1. Floyd shook hands and said "hello" to friends and acquaintances as he pulled off one of the most relaxed robberies in history. The take was only $2,500, but as one newspaperman said, "It was like the hometown performance of a great actor who has made good on Broadway."

The Robin Hood legend also began to crystallize at this time. An essential component of this tradition is that the outlaw "take from the rich and give to the poor." Like Jesse James before him, Floyd claimed that this was his policy; in 1931 he had written a postcard to the governor of Oklahoma announcing, "I have robbed no one but moneyed men." Historians are usually (and justifiably) skeptical of such claims, but in Floyd's case it does seem to have had some basis in fact. Vivian Brown was an Oklahoma City newspaperwoman who had been raised in the Cookson Hills. Because of this, she was able to talk to many people there and even managed to get an interview with "Pretty Boy" himself. She confirmed Floyd's claim that he did not rob the poor and suggests that the Robin Hood image was more than legend: "Like the famed marauder of the English forests, he took money from those who had it—the banks—and divided the proceeds with the poor. The penniless tenant farmers kept their mouths shut; they had no scruples about taking contraband wrested from bankers." One may question, however,



whether this should be called "generosity" or simply good business—cash paid for protection.

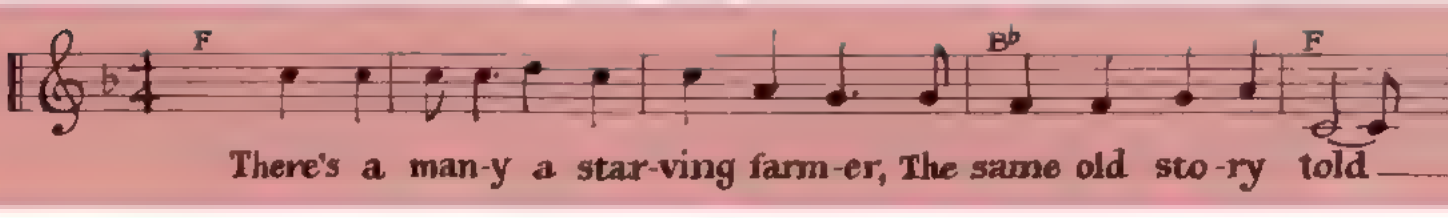
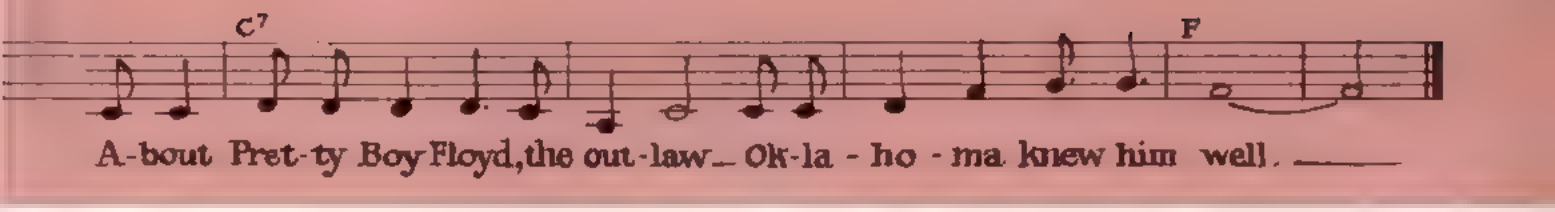
The hill people's loyalty to Floyd is clearly revealed by the fact that they never turned him in, despite a $7,000 reward offered by the governor. The absence of any betrayal is a remarkable variation from the usual Robin Hood pattern and makes Floyd a rather unique outlaw. He was lucky, and he was cunning; but without the support of the local people, he would never have been at large as long as he was.

On the other hand, Floyd did have some debits to his account, even among the hillmen. One Oklahoman who was interested in the governor's reward was Erv Kelley, former sheriff of McIntosh County and in 1932 a state special agent. He set up an ambush at the home of Floyd's father-in-law near Bixby. When Floyd and Birdwell drove up to the house in the early morning hours of April 9, Kelley stepped out and ordered them to surrender. He was answered by a fatal blast of submachine-gun fire, and the two outlaws escaped. Floyd later defended himself with the usual "it was him or me" explanation. But Kelley was a popular man in eastern Oklahoma, and the killing cost Floyd hundreds of friends.

Floyd was undoubtedly a braggart and an exhibitionist. But then the folk have always wanted their outlaw heroes to be impudent. Farmers chuckled when Floyd was quoted as saying, "There's a chief of police at Seminole who stays up twenty-four hours a day trying to figure out where I am so he can be somewhere else." On August 4, 1932, Floyd picked up a former Tulsa policeman named H. W. Nave on the highway, stripped him of his clothing, and drove away laughing. Furthermore, he appeared openly at country dances, at funerals, and even (so folklore insists) at Baptist church services—all to the chagrin of frustrated detectives.

Another redeeming charactistic was that Floyd had a family life of sorts. Even though his wife had divorced him in 1930, he continued to see her and his son. The three of them lived together in Tulsa for a time during 1932. Floyd claimed that they lived across the street from federal agents, who were unable to recognize him. One evening when Floyd took his son to the movies, the cashier stopped him in a long line of customers. The outlaw started to reach for his automatic, but the cashier simply asked him if he thought the child wasn't too young to see the picture. *Dracula* was playing

During 1933 he spent much time under cover, principally in Kansas City. Birdwell had been killed during an independent bank-robbery attempt, and Floyd had teamed up with a former oil-field worker, Adam Richetti. Floyd's known presence in Kansas City accounts for the theory that he was a participant in the infamous Union Station Massacre of June 17. Four police officers were killed and two wounded by three machine gunners who were apparently trying to spring a prisoner named Frank Nash (who was also killed in the fusillade). The FBI charged Floyd with being one of the gunmen, but they never proved their case. It now appears unlikely that he was guilty of this particular crime. The job is too much at variance with the usual Floyd pattern. In addition, Floyd was always loudmouthed about his exploits. But he specifically denied having participated in the Massacre—once in a letter to the Kansas City chief of detectives and again in a death-bed statement to FBI men in Ohio. The actual machine gunners were killed by the mob for having botched their assignment. Floyd would never have been permitted to continue operations and to use mob hideouts if he had been on the gangland rub-out list.

The last year of Floyd's life was marked by gun battles and escapes in Oklahoma, Iowa, and Ohio. The end came on October 22, 1934, at a farm outside East Liverpool, Ohio. Twenty-one FBI agents, led by Melvin Purvis, riddled him with rifle bullets as he tried to escape through a cornfield. The story was important enough to make the front page of the *New York Times*, which described him as having been "the most dangerous man alive." In the wire-service accounts, J. Edgar Hoover was quoted as saying that Floyd was "just a yellow rat who needed extermination." Many people in the east shared this view, but his friends back in Oklahoma saw it differently. W. R. Draper, a United Press correspondent, reported that "as news filtered into the country, friends from the backwoods came and went in their rickety old motor cars. Many of them left the Floyd cottage . . . with bowed heads,



the women brushing away tears. Charley had been a meal ticket to many of these folks during the depression years. To others he was just a country boy who had taken the wrong road."

The adulation of many Oklahomans for Floyd was proved by his funeral, which was held at Sallisaw on October 28. Twenty thousand people attended what was essentially a folk rite of the kind usually found in outlaw chronicles. Teenaged boys and girls wept over the coffin of their fallen hero. The crowd trampled on the other graves, picked leaves off the trees as far as they could reach, and collected small rocks for souvenirs. One woman who was there recalled having lost all the buttons from her dress during the pushing and squirming. The Floyd family sat through it all with the stolid, undemonstrative attitude of the hill people.

The Robin Hood folk tradition continued to grow after the outlaw's death. People named their children after him. They told of how he had kept a rural school open by supplying it with firewood, and of how he had left large bills under the plate after dining with backwoods families. One Oklahoman who popularized this tradition was the great folk singer–composer Woody Guthrie. Born and raised in Okemah, not far from the Cookson Hills, Guthrie's life had been filled with enough hardship and bad luck that he could sympathize with an outcast like Floyd. So his ballad of "Pretty Boy Floyd" is a valuable social document of the Depression years. But it also incorporates many of the timeless themes found in earlier songs about Robin Hood and Jesse James: the outlaw driven to crime by some provocation, his idealized character, his role as an agent of social justice.

Floyd also received favorable mention in John Steinbeck's novel *Grapes of Wrath* (1939). Steinbeck had heard the story of "Pretty Boy" from Oklahoma émigrés in California during the late thirties. The character Ma Joad voices the folk interpretation of Floyd's having been "driven" to crime by intolerable provocations. "He done a little bad thing an' they hurt 'im, caught 'im an' hurt 'im so he was mad, an' the next bad thing he done was mad, an' they hurt 'im again." In most other printed sources, however, such as books on the "Public Enemy" era, the interpretation follows J. Edgar Hoover's "yellow rat" view.

But the Robin Hood tradition continued to live, and Hoover must have been shocked indeed when it surfaced in 1960 as a motion picture entitled *Pretty Boy Floyd*. The synopsis described Floyd as a "sagebrush Robin Hood," and in the story he makes a point of robbing only moneyed men. His partner Richetti asks him at one point, "Are you some kind of a Robin Hood?" Floyd says that he does not want to rob bank clerks who have "holes in their shoes." Much was made of the "Pretty Boy" appellation, and Floyd, portrayed by a handsome actor, John Ericson, is incessantly combing his hair. The script did follow the major outlines of Floyd's career with reasonable fidelity. And it captured the flavor of the long-ago Depression years. As Eugene Archer said in his review for the *New York Times*, "It achieves a curiously nostalgic quality through its calculated resemblance to the 'B' pictures of the Nineteen Thirties."

While Charles Arthur Floyd's name seldom appears in formal histories, he remains alive in the folk memory. His credentials as a Robin Hood candidate are much better than those of any of his contemporaries, particularly Bonnie Parker and Clyde Barrow. The 1966 film *Bonnie and Clyde* attempted to represent these two as folk heroes, but the truth was otherwise. They robbed filling-station operators, crossroads merchants, and the other little people of the Southwest —and so were feared. Floyd, too, was a remorseless killer when he had to be, but he left the have-nots alone and robbed only the banks. If legend must be built on at least a partial framework of historical truth in order to survive, then it seems that the legend of "Pretty Boy" Floyd is destined for a long life.

Kent Ladd Steckmesser *is in the Department of History at California State College at Los Angeles. He is the author of* The Westward Movement: A Short History *(1969) and* The Western Hero in History and Legend *(1965). His magazine articles have appeared in the* Southwest Review *and* Mankind.

A STATE OF INSURRECTION & REBELLION

A personal response to an encounter with law and order

BY T. H. WATKINS

People, parks, and crisis: In May, 1969, a plot of land (above) in Berkeley, California, became the catalyst for a modern exercise in law and order—a confrontation between the rebellious young, some of whom threw rocks, and police and soldiers, some of whom threw tear gas.

Photographs of the People's Park conflict have been furnished through the courtesy of the Phoenix Gallery in Berkeley, which recently concluded a major photographic show on the subject. These photographs, together with many others, were recently published by Ballantine Books in People's Park, *edited by Alan Copeland and Nikki Aria.*

History has a way of catching up with us. I discovered this in a particularly telling fashion last spring when I was compelled one morning to ask permission of a teen-aged National Guard soldier to enter The American West's Berkeley office. He was holding a rifle with the biggest bayonet I've ever seen, and studied me carefully (mustache, fairly long hair, the look of a skeptic) before, with visible reluctance, he let me pass. One tends to remember such things, and the historian's self-imposed stance of objectivity does little to reduce the emotional impact of a bayonet held approximately six inches from one's belly. An encounter like that tends to breed prejudice, and everything I saw and felt during and after the days of crisis in Berkeley was touched with the remembrance of that one incident. So is this. It is not enough to recall that the West has a long heritage of conflict—Denis Kearney and his mobs shouting for the scalps of Nob Hill capitalists in the San Francisco of the 1870s; the Western Federation of Miners on strike in Cripple Creek, Colorado, in 1894 and 1904; the Ludlow strike and "massacre" in Colorado in 1914; the free speech campaigns of the IWW; the farmers' rebellion of 1931; the waterfront strike of San Francisco in 1934; the California farm labor strikes of the 1930s; the Watts convulsion of 1965; ad infinitum—all of them problems in social agony handled as if they were nothing more than simple problems in law and order.

The pattern is a familiar one: people, convinced that their government has failed them, take to the streets; violence ensues; and the government responds to violence with violence, frequently declaring one area or another to be in a "state of insurrection and rebellion," and calling out soldiers to put it down. It has been going on for so long that one is justified in questioning the theory that man is a learning animal. But the knowledge that one is part of a heritage is little comfort in the face of a bayonet; bayonets make one think of the fragility of one's flesh, not history.

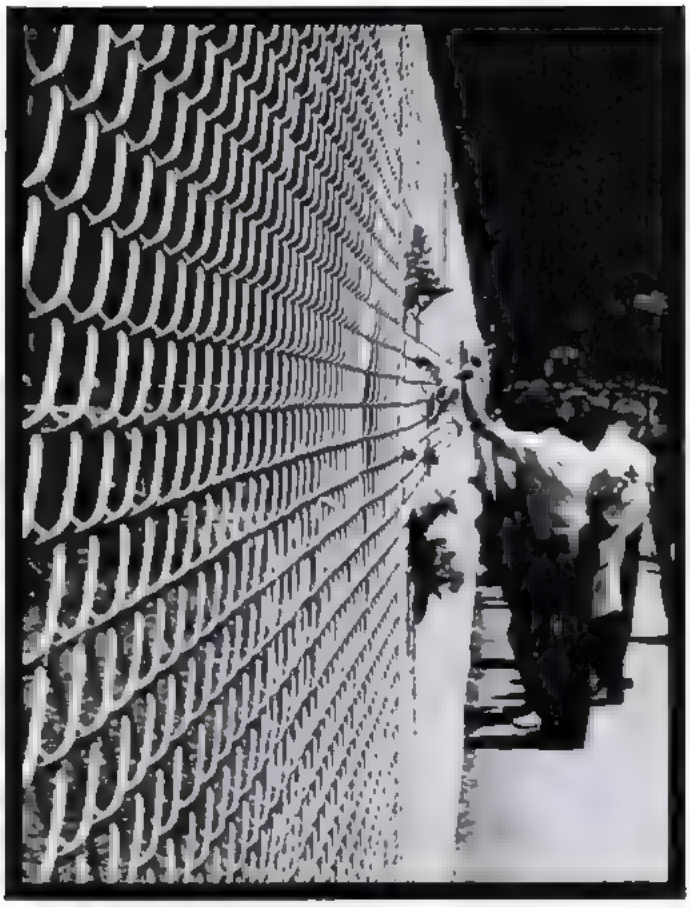
What happened in Berkeley, California, in May of 1969? The outlines of the story are simple enough. A parcel of vacant land on the edge of the University of California campus—owned by the university—was appropriated by a number of Berkeley's self-described "street people" and converted into an extemporaneous playground, living, and recreation area called "People's Park." On May 13, university authorities declared that the lot was to be transformed into a multiple-use recreation facility, a large part of which would be a sports field. They ordered the departure of the park's unauthorized inhabitants and erected a Cyclone fence. On May 15, some three thousand demonstrators marched on the park, to all appearances intent on tearing down the fence. Berkeley police, campus police, the Highway Patrol, and members of Alameda County's Tactical Squad responded with tear gas and buckshot. Three people on a rooftop were wounded. One of them was James Rector.

By nightfall, Berkeley was occupied by more than five hundred police, Governor Ronald Reagan had declared a curfew, and units of the National Guard had been stationed just outside the city. For the next two weeks, Berkeley displayed the characteristics of an occupied city. Police helicopters circled overhead for hour after hour; patrol cars roamed the streets in tandem; National Guard troops surrounded City Hall. The days were broken into a series of seemingly climactic events: On May 19 National Guardsmen wandered through the city in army trucks, invaded the University, broke off gatherings with fixed bayonets, blocked off streets, and arrested people—and that night James Rector died. On May 20, a gathering on campus was broken up by irritant gas sprayed from a helicopter, which gas the wind carried up into Strawberry Canyon at the northern end of the campus, disrupting a group of picnicking mothers and children and wafting it into nearby homes. On May 22, 482 marchers in downtown Berkeley were herded into a parking lot, arrested, and hauled away in trucks; that weekend, the police were led on a merry chase all over the city by groups of protestors planting "instant gardens" in vacant lots, city streets, and parking lots—gardens which the police patiently ripped up.

The real climax came on Saturday, May 30, as nearly ten thousand people marched through Berkeley to People's Park to register their feelings about the city's occupation. The marchers represented a wide spectrum of the city's people; they marched peacefully, and no arrests were made.

And then it was over. Faced with the obvious fact that public opinion in the city was somewhat less than overwhelmingly supportive of their actions, the authorities removed the National Guard, the Alameda County Tactical Squad, and the Highway Patrol. Berkeley returned to business as usual—with a few broken windows, the memory of tear gas, and a bitterness that would remain.

Heritage of conflict: Above, troopers in Ludlow, Colorado, in 1914; left, troopers in Lamars, Iowa, in 1933; below, Wobblies hustled out of Bisbee, Arizona, in 1917.



The mechanics of law in Berkeley, California, 1969: Above, James Rector shot on a rooftop; right, a flower separated from People's Park; below, riot guns and gas masks on a city street.

The "surround": 482 people rounded up in a parking lot.

The outlines of the People's Park conflict are simple; the implications are not, and I will leave them to the pundits. My response, since it was happening all around me, was necessarily a personal one. No amount of training or inclination in the field of history—western or otherwise—can prepare a man for the sight of soldiers in the streets of his own city. Yet even at that moment when the soldier-child's bayonet was pointing at my cringing stomach, I was not totally unaware of history. I had suddenly been given a kinship with another generation—several other generations—who had encountered the brute directness with which society sometimes exercises its conception of the right and the just. I suppose this can be looked upon as a lesson of one kind or another; yet all I seem able to get out of the experience is a reflection stated in a subtitle that appeared in a previous issue of this magazine: "Is it true that what we learn from history is that we learn nothing from history?" It's a question worth thinking about.

And People's Park? It is still there, surrounded by its fence and guarded even today by the Burns Detective Agency—although it is difficult to see why. A large part of it has been sterilized by asphalt, paved over into an unused parking lot. The parking lot was offered to a group of black citizens in the Office of Economic Opportunity to help finance various programs by operating it as a fee lot; the offer was rejected. The university has had difficulty in moving ahead with plans to build dormitories at one end of the park because every architectural firm approached has refused to have anything to do with it; and the university's Inter-Fraternity Council has refused to utilize the planned sports field even if it is ever laid out. No one visits the park; no one wants it.

Not even the people.

The march: ten thousand people express an opinion.

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An Escape from Paranoia

Frontier vigilantism in America arose as westward expansion created conditions of crime and disorder. The imbalance between crime and law enforcement was righted in the twentieth century after the passing of the frontier and the rise of national prosperity. The vigilante impulse was then diverted into postfrontier union-busting and red-baiting. But for the past decade we have been in an era of steeply rising crime. Once again crime and the ability of regular law enforcement to control it are out of phase. Today the problem is not frontier disorder but an enormous increase in the youthful element of the population. Persons under twenty-five commit 75 percent of the serious crimes, and today almost half the population is under twenty-five. Current population projections indicate that this under-25 age group will continue to make up nearly half the population through 1990. The abnormally large portion of youths harboring criminal tendencies will be a major problem of the 1970s and 1980s

Already hundreds of urban vigilante movements have rushed to fill the void in adequate law enforcement. So far, these movements have not usually taken the law into their own hands. They have concentrated on radio patrols to protect themselves and to discourage criminality. But all the anarchic tendencies of vigilantism are inherent in the situation today. They will surely come to dominate unless our regular system of law enforcement is quickly and drastically improved and strengthened. Before this can happen, the nation must fully realize the dimensions of the problem. To borrow the phraseology of Eric Berne, we are not really dealing with the problems involved but have made them into some of the "games people play." White liberals, black militants, and the young all "put down" the police. The police retreat into rightist ideology and paranoia. White conservatives give the police their moral support while denying them much more crucial economic support. The older generation "puts down" the younger, and the young regard those over thirty as irredeemably "straight."

To end the sound and fury the following five-point platform is offered for law and order with justice in the 1970s:

1 *Support the police with substance not rhetoric.*
Until our police gain high pay, better fringe benefits, and college-level technical and sociological training, they will have neither the ability nor the know-how to deal with crime in the 1970s. And until we employ many more police, the situation will be grim indeed.

2. End the cold war between liberals and the police.
The most public minded of those among us (the liberals) and the defenders of public order (the police) should be in alliance to aid our youth and save our cities.

3. End the hot war between black militants and police
Until the police learn enough about the black history and sociology to understand why the Black Panther movement arose there is little hope. And militants must realize, too, that the police can no more be mild than they should be brutal in dealing with black malefactors.

4. Bring conservatives to their senses
Until conservatives—like other Americans—concede the folly and the failure of the Vietnam venture and the need to scale down military and space spending the country will have neither the monetary means nor the manpower to rebuild an effective police system.

5. Close the Generation Gap
This is primarily the responsibility of the older, presumably more mature generation. Our young people are trying to tell us something with their long hair, sideburns, and pot parties, and we've hardly bothered to ask what We must tune in on our young—all of them: red and yellow, too, as well as black and white. We must try to give them tangible aid with neighborhood programs of recreation, meaningful job training, and creative employment; new programs of medical aid for those who succumb to drugs and mental illness; a legal system that combines compassion with justice in the context of certainty and consistency; and humane jails and prisons for the incorrigible.

Until we do these things the young will continue to wreak full vengeance upon us with crime and violence.

Richard Maxwell Brown

Richard Maxwell Brown is professor of history at the College of William and Mary and editor of *American Violence: From the Colonial Period to the Present*, to be published in the spring of 1970

Because* THE AMERICAN WEST *is convinced that it is neither possible nor desirable for a magazine of history and conservation to separate the life of the past from the demands and hopes of the present, Page 48 has been created as a continuing feature of editorial opinion—opinion that hopefully will not only illuminate truth but reinforce the understanding that we are, after all, only what our history has made us. Contributions are invited; they must be signed and the editors reserve the right to accept or reject all submissions.

THE AMERICAN WEST REVIEW

Tom Mooney and the American Dream

BY JAMES P. KINDREGAN

ACCUSED WITH FOUR other labor radicals of complicity in the famous San Francisco Preparedness Day bombing of July 22, 1916, Thomas J. Mooney was tried and convicted on the basis of ideas, not of evidence. And despite subsequent revelations of perjury, subordination, suppression of evidence, and other abuses of judicial process, the victim was required to spend twenty-two years in the living hell of San Quentin. "He should be turned loose," Sherwood Anderson remonstrated in 1931. "There should be a limit, even to our human cruelty." But in the face of manifest injustice and widespread protest, the ordeal was protracted still another eight years. Like the earlier Haymarket affair and Sacco-Vanzetti case, which was soon to follow, the persecution of Thomas J. Mooney represents a kind of paroxysm of fear which periodically seizes the American people and impels them to ritualistic sacrifice.

Brutally neglected in his own lifetime, Mooney has been ignored in death as well. Although his ordeal has often been mentioned in passing by historians, it has never been the subject of intensive scholarly examination—until now. With this book justice is thoroughly, if belatedly, accomplished. On the basis of an exhaustive examination of court records, newspapers, government reports, and personal testimony of those involved, Richard H. Frost has produced a detailed, splendidly authenticated, and well-reasoned account of the trial and its aftermath. And despite almost a plethora of fact and scholarly appurtenance, it is a dramatic and absorbing narrative as well.

Has this immense and conscientious scholarship added significantly to our historical understanding of the episode? Much new information has been provided, of course, on both the man and the court experience, but in the final analysis, the effect of Frost's research is to confirm the traditional radical version of the Mooney story. Not that the author offends historical objectivity or becomes enamored of his subject; on the contrary, he is well aware of the "mottled" human qualities of the man behind the martyr. But Professor Frost is essentially in agreement with the conclusion of Defense Attorney Maxwell McNutt: the trial "was spawned in the brain of a private detective named Martin Swanson" and nurtured in the ambitions and "perfervid imaginations" of police and government officials. To give historical substantiation to the injury done Mooney is itself a significant contribution, but when so egregious a travesty of justice occurs, when such inhumanity is perpetrated, we insist—as Heywood Broun did in the Sacco-Vanzetti case—on knowing why. For the first time the full dimensions of human depravity surrounding the trial have been exposed, but the origins of that depravity have not been comparably illuminated.

The Mooney Case by Richard H. Frost (*Stanford University Press, Stanford, 1968; 563 pp., $12.50*).

To some extent this limitation is an almost inevitable result of the kind of materials with which the author has worked; focusing his research on the relevant legal literature, he naturally places emphasis on matters of law. Therefore, he has arrived at the confident conclusion that subsequent legal reforms, especially Supreme Court rulings on the conditions of fair trial, have precluded a recurrence of the Mooney travesty. Indeed, he concludes that had "these safeguards [existed] half a century ago, there would have been no Mooney case." But while this emphasis gives the book a certain legal timeliness, it does so at the price of historical and perhaps genuine contemporary relevance. In the present Age of Backlash, which threatens even the legal mechanisms on which he relies, can Frost really be so optimistic?

It is, in fact, as historical prototype to the backlash that the significance of Mooney's case really lies; for his ordeal was not merely a trial in court, nor a significant sociological phenomenon; it was a major and characteristic crisis in American civilization. In this context the book seriously disappoints. There is a factual enumeration of the causes of tension in Mooney's San Francisco—class conflict, military preparedness, and general social anxiety—but the relationship of these forces to comparable elements in the nation, and to one another, is not fully explored. Mooney's prosecution is seen as part of a concerted campaign against organized labor, but it is not clear why such an effort was launched, especially in a time of prosperity when, according to the author, anti-unionism tended to be associated with economic recession. The relationship of class tensions to prevalent emotional insecurity, partly manifested in the truculence of the Preparedness Movement, also requires attention. Was the attack upon labor something rationally conceived in the interest of profit, or was it but one aspect of a more deep-seated terror in need of scapegoats and catharsis?

James P. Kindregan *is in the Department of History at the University of California, Davis.*

A WESTERN GATHERING

Looking Westward

BY JOSEPH E. ILLICK

LAW and order has become a political rallying cry, packed with emotional overtones evident to all but the most naïve observers. To one segment of the country, it suggests the reestablishment of the American Way of Life, which has been disrupted by subversive elements on the campus and in the black ghetto. To another segment, often these same "subversive elements," it signifies the repression of justifiable social protest against a corrupt system which breeds war, racism, and poverty. For either group, the visual metaphor of law and order might be the clean-cut, white-hatted marshal arriving in the nick of time to save the town from rebellion.

It is significant that the holstered officer should symbolize the establishment of law and order, since the beginnings of today's full-scale offensive against established authority are associated with specific regions in the West: Watts, the black ghetto of Los Angeles, and two almost contiguous campuses, Berkeley and San Francisco State. Of course, the phenomenon is now nationwide and has provoked a vast literature. What appears most striking when reading about the protests, demonstrations, and riots, and the reactions to same, is their similarity everywhere. This is a new development.

From Shay's Rebellion on the western Massachusetts frontier, through the Populist revolt in the nineteenth century (see Roger Kennedy's article on Ignatius Donnelly in the March, 1969, issue of THE AMERICAN WEST) to the rural insurgency of the 1930s (described by John L. Shover in the Fall, 1965, issue), there was a special quality to revolt in the West. Farmers had felt isolated from the seat of power, frustrated by loneliness and debt, angry because the rural virtues —the true components of the American character—were ignored, derided, and even violated by political and financial manipulators in the city. The farmer may still feel this way, but few people care. Outnumbered and outspoken by six million college students, not to mention a far higher number of ghetto dwellers, the farmers have been relegated to America's past.

And today, on campuses from Berkeley to Boston, in ghettos from Hunter's Point to Harlem, the charges hurled against the white power structure are the same. There are no regional characteristics. Like the farmers (though not for the same reasons), students and urban blacks feel isolated and act from frustration. But they certainly are not calling for a return to rural, virtuous America; indeed, they openly doubt that a virtuous America ever existed. They are demanding a drastic overhaul of the system as a response to present realities—colonialism at home and abroad—and to future needs—theirs.

The rebellious farmers, now safely ensconced in history books, were once regarded as threats to the republic. But the system survived, altered somewhat by the Establishment's willingness to grant some of the rebels' demands. Today's leaders, perhaps moved by the conjunction of domestic and foreign challenge, have begun to search for the causes of revolt instead of passively awaiting further consequences. After the Watts upheaval in the summer of 1965, Governor Edmund Brown of California appointed John McCone, former director of the CIA, to head a commission of investigation. No preestablished riot plan was discovered, but extremist elements were accused of fanning the fires of Watts. The McCone recommendations —better education, job training, and Negro self-help—were gratuitous, if relevant at all. Even the farmers needed more than schools and a pat on the back.

Two years later, in the wake of uprisings in ghettos across the country, President Lyndon B. Johnson created the Commission on Civil Disorders. Headed by Governor Otto Kerner of Illinois (and criticized for its moderate composition), it turned in a hard-hitting *Report* (Bantam, $1.25) which pointed to "two separate Americas," one white and the other black, and warned of the twin dangers of "sustained violence [and] a conclusive repudiation of the traditional American ideals." The *Report* concluded:

> What white Americans have never fully understood—but what the Negro can never forget—is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it.

Meanwhile, student radicals, black and white, seemed to be pushing college campuses in the direction of riot. On December 6, 1967, when my class on the campus at San Francisco State was brought to an abrupt halt by reason of intimidation, there were fights, fires, and threats of worse things to come. Columbia University fulfilled that promise in the spring, as police clashed with students in a bloody conflict which made Ivy League football look delicate in comparison. On June 10, 1968, President Johnson appointed a National Commission on the Causes and Prevention of Violence, directed by Milton S. Eisenhower. Ironically, the commission soon issued a report on the 1968 Democratic National Convention, Daniel Walker's *Rights in Conflict* (New American Library, $.95; Bantam, $1.00). It has also put its imprimatur on Louis H. Masotti and Jerome R. Corsi's *Shoot-out in Cleveland* (Bantam, $.95); Jerome H. Skolnick's *The Politics of Protest* (Ballentine, $1.25), which deals with campus and antiwar demonstrations as well as black militancy; and *Shut It Down! A College in Crisis* (Government Printing Office, $1.00), the story of strife at San Francisco State. (Curiously, two other publications available from the Government Printing Office are *Subversive Influences in Rioting, Looting, and Burning* and *Factors in Selecting and Applying Commercial Explosives and Agents.*)

But the commission's most notable issue to date is a massive study edited by historians Hugh D. Graham and Ted R. Gurr, *The History of Violence in America* (Bantam, $1.25). These essays, written by scholars in a wide range of fields—including a chiller by AMERICAN WEST editorial board member Joe B. Frantz, entitled "The Frontier Tradition: An Invitation to Violence"—deal

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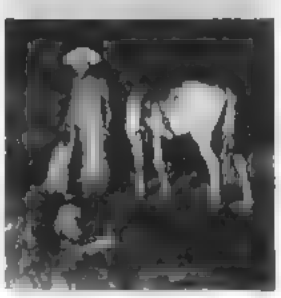

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with "the historical antecedents and foreign parallels of the contemporary American experience with violence." They add up to the inescapable conclusion that collective violence has been common in Western civilization; that urban mobs (such as the Liberty Boys of the American Revolution) are as old as the city; and that, unfortunately, "the seeds of our contemporary discontent [are] deeply embedded in those same ostensibly benevolent forces which contributed to our uniqueness"—the absence of a feudal past, a long frontier experience, the cultural mixture deriving from waves of immigration (supplemented by a desire for consensus), and an easy transition from agriculture to industry. If this is true, if the cultural experiences which have created the system have also created a Frankenstein's monster, then the system may indeed require a drastic overhauling, as the radicals argue.

George Orwell once pointed out (in an essay on Charles Dickens, of all people) that "two viewpoints are always tenable. The one, how can you improve human nature until you improve the system? The other, what is the use of changing the system until you have improved human nature?" The editors of *The History of Violence in America*, if they fit into either category, fall under the first. They fail to see aggression, which leads to violence, as "fundamentally spontaneous or instinctive" to man, thereby implying that the system would be the corrupting force. The opposite point of view, expressed by Anthony Storr in *Human Aggression* (Atheneum, $5.00), is that aggression, like sexuality, is innate and biologically valuable. Furthermore, it can be controlled by ritual and channeled into manifestations other than violence. Perhaps the expression "make love not war" is less facetious than it sounds.

In the sixteenth century, John Calvin declared that man was fundamentally evil, and he and his Puritan followers attempted to build institutions which would repress human nature. In the eighteenth century, Jean Jacques Rousseau declared that "man is born free but he is everywhere in chains," alluding to the ill effects of institutions on kindly human nature. In the twentieth century, we should acknowledge that man is an aggressive creature, that he needs institutions which will allow a healthy expression of this aggression rather than a repressive system which ultimately leads to violent eruption. Our survival depends on tolerance of dissent, acceptance of diversity, adaptation to changing conditions. "Law and order" is not the long-range answer, for in today's usage it too often means the majority's concept of law and order imposed on the minority.

Powdersmoke Towns

BY W. H. HUTCHINSON

The Cattle Towns by Robert R. Dykstra *(Alfred A. Knopf, New York, 1968, 386 pp., illus., appendices, index, $8 95).*

MR. DYKSTRA'S work is the most fascinating treatment of this spawning ground of western lore that has come my way in quite a while.

In meticulous detail, Dykstra examines the birth and development of such towns as Abilene, Ellsworth, Wichita, Caldwell, and Dodge City—all of them board-and-batten enclaves afloat on a sea of grass with wild waves of Texas cattle and Texans beating seasonally at their stability and their cash registers. The normal urban growing pains were intensified by the exigencies of an unstable business—cattle—in an even more unstable climate. The towns tried to improve conditions by a practical segregation technique—the railroad track, or the famous "deadline" — which helped in "suppressing violence while remaining hospitable to the Texas cattle trade."

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historical training, the author examines these cattle towns as urban communities, not as reservoirs of a future folklore. He has done his homework; his research is exhaustive. He has tested and retested his hypotheses, and he presents his conclusions in a prose style which shames the more pedantic school of historical writing.

This is not to say that *The Cattle Towns* is easy reading, for it contains far too much solid fare for the cursory reader. However, Mr. Dykstra has produced a landmark in our knowledge of the West-That-Was; one that is distinguished by its presentation of the people, towns, and times as they were and for what they were, not as we might wish they had been.

W. H. Hutchinson *is professor of history at Chico State College, Chico, California, and author of the recently published* California: Two Centuries of Man, Land, and Growth

Parker's Law

BY CHARLES E. LARSEN

Law West of Fort Smith: A History of Frontier Justice in the Indian Territory, 1834–1896 by Glenn Shirley *(University of Nebraska Press, Lincoln; 206 pp., appendices, illus., $1.50).*

GLENN SHIRLEY'S *Law West of Fort Smith*, first published in 1957, has now been issued in an attractive Bison paperback edition. The book tells the story of the United States Court of the Western District of Arkansas, which once held jurisdiction over seventy-four thousand square miles in Arkansas and Indian Territory. Although Shirley gives a sketchy history of the court from its creation in 1836, the bulk of his work deals with the tenure of Isaac Charles Parker, known as the "Hanging Judge," who presided from 1875 to 1896.

Shirley's thesis can be simply stated. Parker was a stern and fair judge whose willingness to impose the death penalty brought law and order to an area infested with vicious criminals. By tracing the careers of the notorious Dalton and Buck gangs, the "infamous Cooks," and the lady desperado, Belle Starr, Shirley convincingly supports his case for the viciousness of the defendants who were brought to court. He describes, often in painful detail, their acts of sadism and depravity, which extended to women and children as well as men. Here is a good antidote to any surviving movie or dime-novel myths about the nobility and honor of the lawbreakers of the old West.

Although the author has done a considerable amount of research, the book is more a popular than a scholarly work. To Shirley, "the law west of Fort Smith" means chiefly the criminal law in its most melodramatic manifestations. Since Parker's court also had an extensive jurisdiction in civil matters, it is possible that its efforts in this sphere had as great an influence in "civilizing" the Indian Territory as did its trials of major felonies. Perhaps it is never fair to criticize an author for not having written a different book, but this reviewer would have preferred a little expansion in the area of civil law, even at the cost of omitting a few details of the numerous hangings.

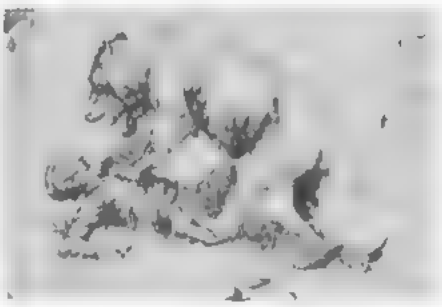
Law West of Fort Smith is not merely a chronicle of killings, trials, and executions, however. Shirley competently describes the enormous complexities of the legal system of the Indian Territory in which the Constitution, Indian treaties, tribal customs, federal statutes, and common law all played their roles. For fourteen years, Congress did not exercise its power to give the Supreme Court—or any other court—appellate jurisdiction over Judge Parker's decisions. In this sense, Judge Parker's word *was* the law west of Fort Smith. After Congress finally acted in 1890, the Supreme Court, in six years, reversed thirty-seven convictions by his court. The judge publicly accused the Supreme Court of "knifing the trial judge in the back and allowing the criminal to go free." Defenders of the Court, notably the solicitor general of the United States, counterattacked with the assertion that it was possible to obtain convictions without violating the constitutional rights of the accused. The vitriol, as well as the substance, of the controversy rings familiar in the 1960s.

Charles E. Larsen *is professor of history at Mills College, Oakland, California.*

BOOKS IN BRIEF

By Ferol Egan

Mines, Murders and Grizzlies by Charles F. Outland *(The Ventura County Historical Society and The Ward Ritchie Press, 1969; 134 pp., illus., index, $12.50).*



USING BACK ISSUES of early Ventura County newspapers as his primary source, Outland has reconstructed a time of California innocence. Grizzlies? Indeed, there were. Lost mines? Why, of course. A mountain man? Yes, sir, one Jeff Howard, last of a vanishing breed. All this and a good deal more is presented with taste, a lively prose style reminiscent of Mark Twain and Dan De Quille, and a warm sense of humor that is truly western.

While these stories deal with the back country of Ventura County, they really are part of mainstream America before the waters were polluted. Here are William Randolph Hearst obsessed with the notion of capturing a grizzly bear for San Francisco's Woodward Gardens; Jeff Howard unable to adjust to town living; and the Lost Padres' Mine story—a story believed by a few backlanders right up to this moment.

Outland has put together a collection of western yarns that are filled with humor and humanity. The result is a rare glimpse over our historical shoulder at an American way of life that had more values than faults, more hope than despair.

Ghost Towns of Arizona by James E. and Barbara H. Sherman *(University of Oklahoma Press, Norman, 1969; 208 pp., illus., maps, biblio., index, $6.95).*

IN GENERAL, GHOST TOWN books have the flaws of bad writing, sloppy research, sentimentality, and grainy reproductions of tasteless photographs. Here, by God, is an exception to the rule!

Ghost Towns of Arizona is a first-rate reference work. The book's design presents the towns in alphabetical order; lists "the county in which it is located, the direction and distance in miles from the nearest present-day town, the page number of the map upon which the ghost town is located, and the date when the first post office was established, and when it was discontinued." In addition, the prose is good, the selection of photographs is good, and the maps by Don Percious are models of the art.

From Alamo Crossing to White Hills, the remains of man's mining towns are presented in a manner that captures their starkness and makes the landscape of the moon appear friendly. Even the casual reader will wonder why-in-hell these seekers of fortunes were willing to

New

Clemens of the Call: *Mark Twain in San Francisco*

Edited by **Edgar M. Branch**

When Samuel Clemens was the local reporter for the San Francisco *Daily Morning Call* in 1864, he wrote hundreds of items for his newspaper, nearly all of which have been buried in the files ever since. *Clemens of the "Call"* reprints two hundred of them in a volume that students of Mark Twain's stylistic development will find of lively interest. The selections appear in chronological order within broad topical groupings, thus revealing the main categories of Clemens' reporting, and clarifying the continuities in his treatment of specific subjects and personal concerns. Mr. Branch indicates the evidence that in his opinion establishes Clemens as the author of the reprinted selections.
1969 LC: 69-15084 336 pages illustrations $10.00

The Unwelcome Immigrant: *The American Image of the Chinese, 1785–1882*

Stuart Creighton Miller

The American decision in 1882 to exclude Chinese immigrants represented the first institutional break with the traditional melting-pot concept. In seeking an explanation for the event, Mr. Miller finds that an unfavorable reputation preceded the Chinese to the United States and that, despite current beliefs to the contrary, sino-phobia was endemic in the eastern states long before the admission of California to the Union. He argues that the national decision to exclude Chinese resulted not from strictly California fears but from a wider concern with "coolieism," nameless contagions, and the undermining of American values and institutions. 1969 LC 76-81763 300 pages $6.95

Revised Edition

The Millennial Kingdom of the Franciscans in the New World

John Leddy Phelan

Regarded as a major contribution to the history of the Spanish Conquest, this book studies the writings of Gerónimo de Mendieta (1525–1604), the principal proponent of the Franciscans' belief that the use of force was justified in conquering the infidels. Professor Phelan examine both the theological basis for Mendieta's position and the ways in which the events of the Conquest influenced his thinking. 1969 176 pages $6.50

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NEW BOOKS

FRANCISCAN MISSIONARIES IN HISPANIC CALIFORNIA 1769–1848: A Biographical Dictionary

By Maynard Geiger, O.F.M.

Life stories of the 142 Franciscan missionaries who brought Christianity to California. Valuable as a reference tool and important as a history of the mission era and of the very human individuals who brought that era to pass. **$12.50**

THE HENRY E. HUNTINGTON LIBRARY AND ART GALLERY FROM ITS BEGINNINGS TO 1969

By John E. Pomfret

An informative record of life at the Huntington Library during the fifty years since its founding. Dr Pomfret, Director of the institution for fifteen years before his retirement in 1966, depicts a forward-looking, multifaceted organization. **$8.50**

DAVID C. BRODERICK: A POLITICAL PORTRAIT

By David A. Williams

Traces the career of the early California politician from an inauspicious start to his election as United States senator and to his death in the celebrated duel with Justice Terry. Vivid re-creation of California politics in the 1850's **$7.50**

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live in such places. Yet, if such towns do nothing else, they do "exemplify man's innate courage, tenacity, and perhaps even foolishness in his unending search for new frontiers of wealth."

Nevada's Northeast Frontier by Edna B. Patterson, Louise A. Ulph, and Victor Goodwin *(Western Printing & Publishing Co., Sparks, Nevada, 1969; 702 pp., illus., notes, biblio., index, $12.50).*

A BIG BOOK about a big land is difficult to write under the best of conditions, and this history did not have that advantage. It suffers from the inability of the authors to agree about what was really significant and what was pertinent only to local citizens. Indians, mountain men, guides, explorers, pioneers, miners, soldiers, railroad builders, cattlemen, sheepmen, and townsmen are here in profusion. So much is crammed into these pages that the reader is nearly buried by names, dates, facts, and events. To make matters worse, the collaboration of three authors did not work out too well. It resulted in an imbalance in prose style and pursuit of purpose. Some chapters—the struggle between the Indians and whites, the cattle and sheep industry—are well organized and have a passable narrative. Other chapters—the livestock men, the thumbnail guide to valleys and towns—are too much like "mug" books or promotional pieces for real estate merchants. Then to compound confusion, the book does not have a map; and considering the size of this land, the writers assume far too much if they think all their readers will know the region's geography. However, despite all these drawbacks, this history is a valuable reference work for anyone working the lode of Nevada history. And it is the first solid attempt to deal with this part of frontier Nevada. Perhaps it will encourage other writers to take a closer look

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American Odyssey: The Journey of Lewis and Clark by Ingvard Henry Eide. Introduction by A. B. Guthrie, Jr. *(Rand McNally & Company, Chicago, 1969; 245 pp., illus., endpaper map, a note on photography, sources, reading list, $19.95).*

IF LEWIS AND CLARK could have taken a photographer with them, he would have been a man like Ingvard Henry Eide. In a most remarkable book, Eide has taken selections from the writing of Lewis and Clark, as well as other members of their expedition, followed their historic path, and photographed in retrospect the greatest of America's adventures.

A determined man, Eide set out on his own odyssey to record what remained of what the two captains had seen. As Guthrie put it, Eide set out "to capture in recapitulation the seasons, the very time of day, the very state of weather and the very shades of light, but also the moods that such circumstances induced in the captains and the crew."

The success of this labor, the final reality of this dream, is a splendid blend of what the men wrote in their journals and letters and what they were not able to capture with words alone. Here in words and pictures is the American adventure, the heart of the westward push. Here is an armchair chance to be in Meriwether Lewis's place as he wrote to his mother, "The day after tomorrow I shall set out for the Western Country."

Trail-Blazing Pioneer: Colonel Joseph Ballinger Chiles by Helen S. Giffen *(John Howell, San Francisco, 1969; 100 pp., illus., notes, sources, $17.50).*

THIS SHORT BIOGRAPHY of Joseph Chiles is both fascinating and irritating. Certainly, the life of this early Anglo-Californio is filled with the ingredients of a great biography: member of the Bidwell-Bartleson Party of 1841, Mexican citizen by choice, friend of Yount and Vallejo, early Napa Valley settler noted for the fine flour produced at his mill and his first-rate wheat whisky, and an anti–Bear Flag Revolt man. All this makes interesting reading. That the book is also irritating—because of what it does not say—is not Mrs. Griffin's fault, since much of the material on Chiles was burned before she had a chance to see it. Another source of irritation is the number of errors that managed to escape the proofreader. Misspelled words and a wrong source title should have been corrected before this handsome volume appeared. Still, because this is the only full-length biography of Joseph Chiles, it fills another gap in California's history and is well worth adding to a collection of Californiana.

Law & the Land *(continued from page 16)*

questioning, he admitted that he had masterminded the robbery, and named the four who had actually committed the crime.

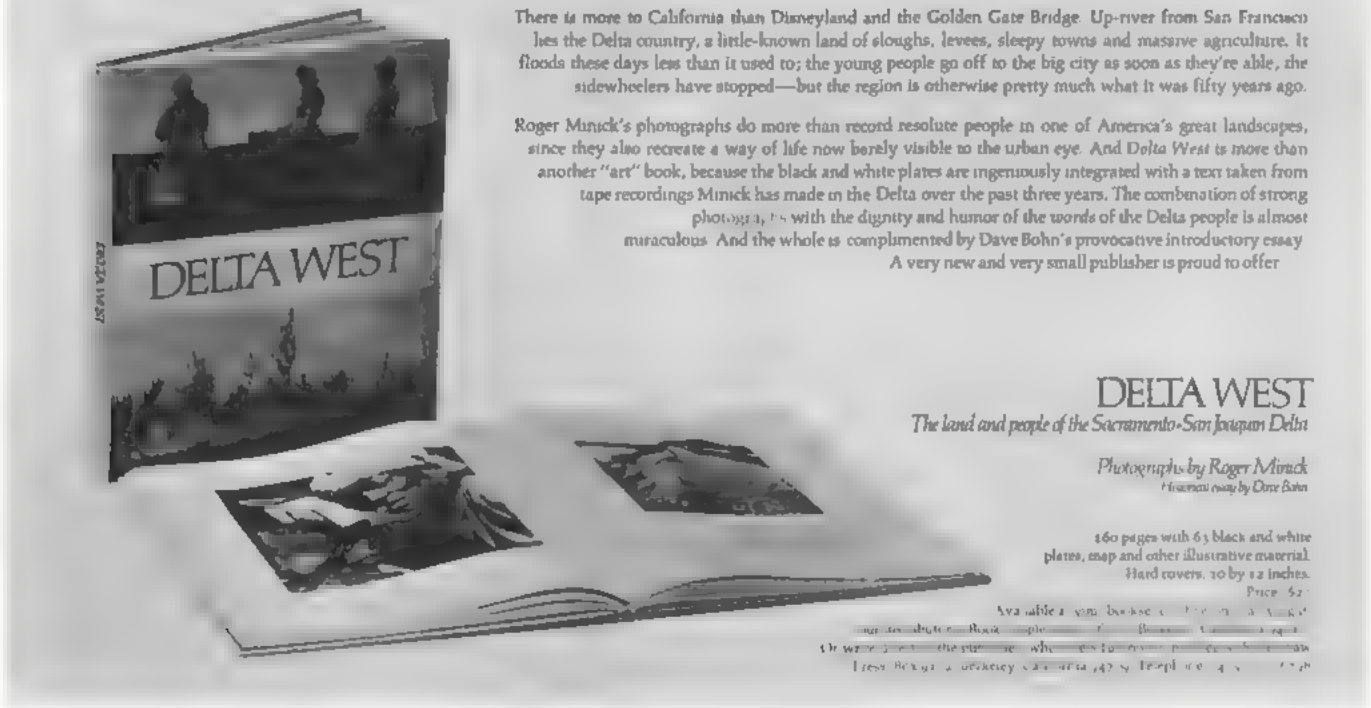
The four suspects were arrested and brought to trial at the Cochise County courthouse in Tombstone. They were found guilty and hanged on March 28, 1884. Heith, who had not shot anyone, was sentenced to twenty years in prison by the same court—a decision that to the residents of Bisbee seemed a miscarriage of justice. En masse, they went to Tombstone, took Heith out of the jail, and strung him up to a telegraph pole. (See picture on page 22.) The citizens of Tombstone were sympathetic to the lynching and did nothing to prevent it. But they were left with an unexplained corpse. When a coroner's jury was convened, it duly considered the matter and finally accepted the statement recommended by the coroner, Dr. Goodfellow: "We the undersigned find that J. Heith came to his death from emphysema of the lungs—a disease common to high altitudes—which might have been caused by strangulation, self inflicted or otherwise."

The Anglo-American pioneers of the Old Southwest came to a land with a long legal heritage. As in farming, mining, and ranching, so too in law, Indian-Spanish-Mexican traditions formed a base on which the settlers could build. It was reinforced with their own experience as they proceeded to erect churches and schools, as well as courthouses and jails, in the process of civilizing a hard land. The new society which arose on these old foundations is probably as stable and well-ordered as that in any other section of the nation.

Odie B. Faulk, *associate professor of history at Oklahoma State University, has taught at the University of Arizona and Texas A & M University. He is author of* Land of Many Frontiers: A History of the American Southwest *(1968) and* The Geronimo Campaign *(1969). Currently he is writing a short history of Arizona.*

CORRECTION

It has been called to our attention by the principals involved that a slipshod editorial pencil caused a distortion of meaning in James T. Lemon's review of D. W. Meinig's *The Great Columbia Plain*, which appeared on page 80 of the September, 1969 issue of this magazine. Professor Meinig is not, as paragraph two of that review implies, an historian; he is a geographer. Moreover, he is not an environmentalist, as that same paragraph further implies. Since no man likes to be taken for something he is not, we express our sincere apologies to both Professor Meinig and Professor Lemon.



There is more to California than Disneyland and the Golden Gate Bridge. Up-river from San Francisco lies the Delta country, a little-known land of sloughs, levees, sleepy towns and massive agriculture. It floods these days less than it used to; the young people go off to the big city as soon as they're able, the sidewheelers have stopped—but the region is otherwise pretty much what it was fifty years ago.

Roger Minick's photographs do more than record resolute people in one of America's great landscapes, since they also recreate a way of life now barely visible to the urban eye. And *Delta West* is more than another "art" book, because the black and white plates are ingeniously integrated with a text taken from tape recordings Minick has made in the Delta over the past three years. The combination of strong photographs with the dignity and humor of the words of the Delta people is almost miraculous. And the whole is complimented by Dave Bohn's provocative introductory essay.

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CURRENT WESTERN BOOKS 1968-1969

Current Western Books is designed as a tool for the reader interested in books of and about the American West. While we cannot claim that the following listing is comprehensive, since we have not included privately printed or limited edition materials and we have listed only those books received in our office for review, we do feel that this listing provides a reliable guide to some of the most important western books published between November, 1968 and November, 1969.

The Alamo Chain of Missions by Marion A. Habig O.F.M. (Franciscan Herald Press, Chicago, 1969 $6.95)

The Albuquerque Navajos by William H. Hodge (University of Arizona Press, Tucson, 1969 $4.00)

Allied Intervention in Russia 1917-1920 by John Bradley (Basic Books, Inc., New York, 1968 $6.50)

The American Frontier by D. Duane Cummins and William G. White (Benziger Brothers, Inc., New York, 1968).

America's Great Frontiers and Sections: Frederick Jackson Turner's Unpublished Essays edited with introduction by Wilbur R. Jacobs (University of Nebraska Press, Lincoln, 1969, $1.95)

American Printmaking: The First 150 Years by Wendy J. Shadwell (Smithsonian Institution Press, Washington D.C., 1969 $12.50)

The American West: Frontier and Region interpretations by John Walton Caughey, edited by Norris Hundley Jr. and John A. Schutz (Ward Ritchie Press, Los Angeles, 1969, $10.00)

Ancient Life in the American Southwest by Edgar L. Hewett (Biblo & Tannen, New York, 1968. $12.50)

The Anglo-Spanish Struggle for Mosquitia by Troy S. Floyd (University of New Mexico, Albuquerque, 1968. $6.95)

Anthropological Papers of the University of Arizona by Lynne, Scoggins, Crumrine, William B. Griffen, Jack O. Waddell (University of Arizona Press, Tucson, 1969)

Apples of Paradise and Other Stories by Frederick Manfred (Trident Press, New York, 1968 $5.95)

Aqueduct Empire: A Guide to Water in California in Its Turbulent History: Its Management Today by Erwin Cooper (Arthur H. Clark Co., Glendale, 1968, $12.50)

Arctic Biology edited by Henry P. Hansen (Oregon State University, Corvallis, 1968, $6.50)

The Armchair Mountaineer by George Alan Smith and Carol D. Smith (Putnam Publishing Corp., New York, 1968, $15.00)

The Armies of God: The Little-known Story of the Mormon Militia on the American Frontier by Paul Bailey (Doubleday & Co., Inc., Garden City, New York, 1968 $5.95)

Around Western Campfires by Joseph Mack Axford (University of Arizona Press, Tucson, 1969, $4.95)

The Art and Politics of Thomas Nast by Morton Keller (Oxford University Press, New York, 1968, $12.50)

The Art of Ancient Mexico by Shirley Glubok, designed by Gerard Nook, photography by Alfred H. Tamarin (Harper & Row, New York, 1968, $4.50)

An Artist On the Overland Trail: The 1849 Diary and Sketches of James F. Wilkins edited by John Francis McDermott (Huntington Library, San Marino, Calif., 1968 $12.50)

AZN: A History of the American Zinc Company by James D. Norris (Society Press, Madison, 1968, $5.95).

Baja: Land of Lost Missions by Marquis McDonald and Glenn N. Oster (Naylor Co., San Antonio, Texas, 1968. $4.95)

Banister Was There by Leona Banister Bruce (Branch-Smith, Inc., Fort Worth, 1968. $6.95)

Bartlett's West: Drawing the Mexican Boundary by Robert V. Hine (Yale University, New Haven, 1968, $12.50)

Before Mark Twain: A Sampler of Old, Old Times on the Mississippi edited with introduction by John Francis McDermott (Southern Illinois University Press, Carbondale, 1968, $15.00)

Bernard DeVoto by Orlan Sawey (Twayne Publishers Inc., New York, 1969)

The Big Band Country of Texas by Virginia Madison (October House, Inc., New York, 1969, $5.95)

Big Bill Haywood and the Radical Union Movement by Joseph R. Conlin (Syracuse University Press, Syracuse, 1969. $6.95)

Big Warward Girl by Herbert Phillips (Doubleday & Co., Inc., Garden City, New York, 1968, $5.95)

The Birds and the Beasts Were There by Margaret Millar (Random House, Inc., New York, 1968, $5.95).

Boil My Heart for Me by H. Baxter Liebler (Exposition Press Inc., New York, 1969, $6.00)

The Books of California: An Introduction to the History and the Heritage of This State by Gertrude K. Stoughton (Ward Ritchie Press, Los Angeles, 1968, $12.50)

Boss Cowman: The Recollections of Ed Lemmon 1857-1946 edited by Nellie Snyder Yost (University of Nebraska Press, Lincoln, 1969, $6.95)

Bostonians and Bullion: The Journal of Robert Livermore, 1892-1915 edited by Gene M. Gressley (University of Nebraska Press, Lincoln, 1968. $6.95)

Bound for Glory by Woody Guthrie (E. P. Dutton & Co., Inc., New York 1968 sketches by the author)

Bounty and Donation Land Grants of Texas 1835-1888 by Thomas Lloyd Miller (University of Texas, Austin, 1968. $25.00)

A Bride Goes West by Nannie T. Alderson and Helena Huntington Smith, illustrated by J. Cosgrove II (University of Nebraska, Lincoln, 1969, $1.95)

Bullying the Moqui by Charles F. Lummis, edited with introduction by Robert Easton and MacKenzie Brown (Prescott College Press, Flagstaff, Arizona, 1968, $7.50)

California: A Literary Chronicle edited by W. Storrs Lee (Funk & Wagnalls, New York, 1969; $10.00)

California: An Illustrated History by Don E. Fehrenbacher and Norman E. Tutorow (D. Van Nostrand Co., Inc., Princeton, 1968. $12.50)

California: An Interpretive History by Walton Bean (McGraw-Hill, New York, 1968. $8.95)

The California Coast: A Bilingual Edition of Documents from the Sutro Collection edited in 1891 by George Butler Griffin, re-edited by Donald C. Cutter (University of Oklahoma Press, Norman, 1969, $7.50)

California's Prodigal Sons: Hiram Johnson and the Progressives, 1911-1917 by Spencer C. Olin, Jr. (University of California, Berkeley, 1968 $6.95)

The Call to California: The Epic Journey of the Portola-Serra Expedition in 1769 by Richard Pourade photos by Harry Crosby, paintings by Loyd Harting (Copley Press, Inc., published by the Union-Tribune Publishing Co., San Diego, 1968 $9.50)

The Caparisoned Horse by Richard K. McMaster (Complete Printing & Letter Service, El Paso 1968 $1.50)

Caspar Collins: The Life and Exploits of an Indian Fighter of the Sixties by Agnes Wright Spring (University of Nebraska Press, Lincoln, 1969, $1.80)

Cattle Brands in Arizona by James Fraser, introduction by Don Perceval (Northland Press, Flagstaff, 1968)

The Cattleman's Steak Book by Carol Truax and S. Omar Barker (Grosset & Dunlap, New York, 1968, $3.50)

Cherokee Country by Elizabeth Baker (Metropolitan Press, Portland, Oregon, 1968, $5.95)

Clayton: Not Quite Shangri-La: the Story of a California Town by George A. Pettitt (Contra Costa County Historical Society, $5.00)

Cliff Dwellers by W. E. S. Folsom-Dickerson (Naylor Co., San Antonio, Texas, 1968 $4.95)

The Cochiti Dam Archaeological Salvage Project assembled by Charles H. Lang (Museum of New Mexico Press, 1968. $4.50)

College Curriculum and Student Protest by Joseph J. Schwab (University of Chicago Press, Chicago, 1967 $4.95)

Colorado Charley: Wild Bill's Pard by Agnes Wright Spring (Pruett Press, Inc. Boulder, Colorado, 1968 $6.50)

The Comparative Approach to American History edited by C. Vann Woodward (Basic Books, Inc., New York 1968. $6.50)

The Complete Horseshoeing Guide by Robert F. Wiseman (University of Oklahoma Press, Norman, 1968. $4.95)

The Complete Walker by John Fletcher (Alfred A. Knopf, Inc., New York, 1968, $6.95).

The Conflict of Generations: The Character and Significance of Student Movements by Lewis S. Feuer (Basic Books, Inc., New York, 1969, $12.50)

A Congressional History of Railways in the United States by Lewis H. Haney (Augustus M. Kelley, New York, 1968)

Coppers Children: The Rise and Fall of a Mexican Copper Mining Camp by Inez Horton (Exposition Press, Inc., New York, 1968, $5.50).

The Court-Martial of General George Armstrong Custer by Lawrence A. Frost (University of Oklahoma Press, Norman, 1968 $5.95)

Cowboys Under the Mogollon Rim by Glenn R. "Slim" Ellison (University of Arizona Press, Tucson, 1968. $6.50).

Crisis of the American Dream: A History of American Social Thought, 1920-1940 by John Tipple (Pegasus, New York, 1968)

Dallas Stoudenmire El Paso Marshal by Leon C. Metz (Pemberton Press, Austin and New York, 1969; $6.95)

Dancing Bear An Inside Look at California Politics by Gladwin Hill (World Publishing Co., Cleveland, 1968, $6.50)

David G Burnet First President of Texas by Mary Whatley Clarke (Pemberton Press, Austin and New York, 1969; $9.50)

The Days of My Years, The Autobiography of an Average American by Earl R. Smith (Oregon Historical Society, Portland, Oregon, 1968, $4.95).

Demographic Statistics of Hawaii 1778 1965 by Robert C. Schmitt (University of Hawaii, Honolulu, 1968, $3.50)

Derby's Report on Opening the Colorado 1850 1851 by Odie B. Faulk (University of New Mexico Press, Albuquerque, 1969, $7.00).

Desert Solitaire A Season in the Wilderness by Edward Abbey (McGraw-Hill, New York, 1968. $5.95)

Diamondfield Jack. A Study in Frontier Justice by David H. Grover (University of Nevada Press, Reno, 1968, $5.00)

The Diary of a Ninety-Fighter by Basil Austin (John Cumming, Mount Pleasant, 1969; $10.00)

Dick Wick Hall Stories from the "Salome Sun" by Arizona's Most Famous Humorist collected by Francis Dorothy Nutt (Northland Press, Flagstaff, 1968, $6.00).

The Disney Version The Life, Times, Art and Commerce of Walt Disney by Richard Schickel (Simon and Schuster, New York, 1968. $6.50)

Doctors on Horseback Pioneers of American Medicine by James Thomas Flexner (Dover Publications, Inc., New York, 1969, $2.50)

Donna Modixxa Goes West The Biography of a Witch by Forbes Parkhill (Pruett Press, Inc Boulder, Colorado, 1968, $6.00)

Do Not Annoy the Indians by Betty Baker, illustrated by Harold Goodwin (Macmillan Co., New York, 1968, $4.50)

Earl Warren, Governor of California by Richard B. Harvey (Exposition Press, New York, 1969, $8.00)

The Eastern Establishment and the Western Experience: The West of Frederic Remington, Theodore Roosevelt, and Owen Wister by G. Edward White (Yale University Press, New Haven, 1968, $6.75).

Economic Beginnings of the Far West, 1912 by Katherine Coman (Augustus M. Kelley, New York, 1969, two volumes, $25.00)

Ed Howe: Country Town Philosopher by Calder M. Pickett (University of Kansas Press, Lawrence, 1969; $10.00).

1897 Sears Roebuck Catalogue introductions by S. J. Perelman and Richard Rovere (Chelsea House Publishers, New York, 1968, distributed by Random House, $14.95)

The Enduring Navaho by Laura Gilpin (University of Texas Press, Austin, 1968, $17.50)

The Enterprising Scot. Investors in the American West after 1873 by W. Turrentine Jackson (Edinburgh University, Edinburgh and Chicago, 1968, 63s. net).

Enter Without Knocking by Daniel G. Moore (University of Arizona Press, Tucson, 1969; $6.50).

Essays in Illinois History in Honor of Glenn Huron Seymour edited by Donald F. Tingley (Southern Illinois University Press, Carbondale, 1968, $5.00).

Estevanico the Black by John Upton Terrell (Westernlore Press, Los Angeles, 1968, $6.95).

Evergreen, Colorado by Mary Helen Crain (Pruett Publishing Co., Boulder, 1969; $2.00)

Expansion and American Indian Policy, 1783 1812 by Reginald Horsman (Michigan State, East Lansing, 1968, $5.75).

Exploring Mount Rainier by Ruth Kirk (University of Washington Press, Seattle, 1968, $1.95)

The Extranjeros Selected Documents from the Mexican Side of the Santa Fe Trail 1825 1828 edited and translated by David J. Weber (Stagecoach Press, Santa Fe, 1968, $4.95).

Famous Guns that Won the West by James Wyckoff (Arco Publishing, New York, 1968, $3.50)

Fifty Years on the Owl Hoot Trail by Harry E. Chrisman; from original ms. by Jim Herron (Sage Books, Chicago, 1969; $8.50)

Fired in Anger by Robert Elman (Doubleday & Co., Inc., Garden City, New York, 1968, $7.95).

The First and Second United States Empires by Jack Ericson Eblen (University of Pittsburgh Press, Pittsburgh, 1968, $8.95).

For Science and National Glory. The Spanish Scientific Expedition to America, 1862 1866 by Robert Ryal Miller (University of Oklahoma Press, Norman, 1968 $5.95).

The Fourth Corner Highlights from the Early Northwest by Lelah Jackson Edson (Whatcom Museum Society, Craftsman Press, Seattle, 1968)

The Franco Texan Land Company by Virginia H. Taylor (University of Texas Press, Austin, 1969; $7.50).

From Wilderness to Enabling Act. The Evolution of a State of Washington by Paul L. Beckett (Washington State University Press, Pullman, 1968, $2.50)

Frontier America: The Story of the Westward Movement by Thomas D. Clark (Charles Scribner's Sons, New York, 1969, $12.50)

Frontier Settlement in Mexican California by C. Alan Hutchinson (Yale University Press, New Haven and London, 1969, $10.00)

Fur Trade and Empire George Simpson's Journal 1824 25 edited by Frederick Merk (Harvard University, Cambridge, 1968, $7.95)

The Future of Conservatism. From Taft to Reagan and Beyond by M. Stanton Evans (Holt, Rinehart & Winston, Inc., New York, 1968, $5.95).

The Gentle Tamers. Women of the Old Wild West by Dee Brown (University of Nebraska Press, Lincoln, 1968, $1.95)

Germany Rediscovers America by Earl R. Beck (Florida State University Press, Tallahassee, 1968; $12.00)

Ghost Town El Dorado by Lambert Florin (Superior Publishing Co., Seattle, Washington, 1968, $12.95).

Ghost Towns of Arizona by James E. and Barbara Sherman (University of Oklahoma, Norman, 1969; $6.95)

Ghost Towns of the Colorado Rockies by Robert L. Brown (Caxton Printer Ltd., Caldwell, Idaho, 1968, $6.25)

Gold Hunter. The Adventures of Marshall Bond by Marshall Bond, Jr. (University of New Mexico Press, Albuquerque, 1969; $8.50).

The Grand Canyon by John V. Young (Filter Press, Palmer Lake, Colorado, 1969)

The Great Columbia Plain. A Historical Geography 1805 1910 by D. W. Meinig (University of Washington Press, Seattle, 1968, $15.00)

The Great Lone Land by William Francis Butler (Charles E. Tuttle Co., Rutland, Vermont, and Tokyo, Japan, 1968, $5.00)

Great River The Rio Grande in North American History by Paul Horgan (Minerva Press, Funk & Wagnalls, New York, 1968; two volumes, paper, $2.95 each).

The Grey Horse Legacy by John Hunt (Alfred A. Knopf, Inc., New York, 1968 $6.95)

Grover Cleveland: A Biography of the President Whose Uncompromising Honesty and Integrity Fatled America in a Time of Crisis by Rexford Guy Tugwell (Macmillan Co., New York, 1968, $5.95).

Guests Never Leave Hungry The Autobiography of James Sewid a Kwakiutl Indian edited by James P. Spradley (Yale University Press, New Haven, 1969, $10.00)

A Guidebook to the Southern Sierra Nevada Including Sequoia National Forest by Russ Leadabrand (Ward Ritchie Press, Los Angeles, 1968, $1.95).

The Gunfighter Man or Myth? by Joseph G. Rosa (University of Oklahoma Press, Norman, 1969, $5.95).

Half a Million Wild Horses by Kunigunde Duncan (Branden Press, Boston, 1969, $6.95).

Haunted Highways. The Ghost Towns of New Mexico by Ralph Looney (Hastings House, New York, 1969; $12.95)

Hawaii's People by Andrew W. Lind (University of Hawaii, Honolulu, 1968 $4.75)

Higher Than the Arrow by Judy van der Veer, woodcuts by F. Leslie Matthews (Golden Gate Junior Books, San Carlos, Calif., 1969 $3.95)

Highlights of Puebloland by Louis Thomas Jones (Naylor Co., San Antonio, 1968, $4.95)

Historians Against History: The Frontier Thesis and the National Covenant in American Historical Writing since 1830 by David W. Noble (Minnesota University, Minneapolis, 1968, $1.95).

A Historian's Progress by Roy F. Nichols (Alfred A. Knopf, Inc., New York, 1968, $6.95).

Historian's Quest. A Twenty-Year Journey into the Spanish Mind by Gabriel Jackson (Alfred A. Knopf, Inc., New York, 1969, $6.95)

Historical Atlas of New Mexico by Warren A. Beck and Ynez Haase (University of Oklahoma Press, Norman, 1968, $2.95 paper, $4.95 cloth)

The Historical World of Frederick Jackson Turner with Selections from his Correspondence narrative by Wilbur R. Jacobs (Yale University Press, New Haven, 1968, $10.00)

Historiography and Urbanization. Essays in American History in Honor of W. Stull Holt edited by Eric Goldman (Kennikat Press, Port Washington, New York, 1968, $7.00)

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The Wilder Shore A History of the Gala Days of San Francisco by Stephen Longstreet (Doubleday & Co., Inc , Garden City, New York, 1968, $6 95)

The Wild North Land by William Francis Butler (Charles E Tuttle Co , Rutland, Vt 1968 $5 00)

Wild Sanctuaries. Our National Wildlife Refuges A Heritage Restored by Robert Murphy, foreword by Stewart L Udall (E P Dutton & Co., New York, 1968; $22 50).

Wild Sports in the Far West The Narrative of a German Wanderer beyond the Mississippi, 1837 1843 introduction and notes by Edna L. Steeves and Harrison R Steeves (Duke University Press, Durham, North Carolina, 1968. $6 50)

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Wolfville Yarns of Alfred Henry Lewis selected and edited by Rolfe and John Humphries (Kent State University Press, Kent, 1969; $2 95).

Wyoming Wife by Rodello Hunter (Alfred A. Knopf, Inc , New York, 1969 $5 95).

Xit Buck. The Personal Recollections of a Fast-moving and Fascinating Boyhood by C E MacConnell (University of Arizona, Tucson, 1968, $4 95)

Yellow Back Radio Broke-Down by Ishmael Reed (Doubleday & Co., Inc., Garden City, New York, 1969; $4 94)

Yellowstone Jack and Other Poems of the Golden West by Elizabeth Bustos (Exposition Press Inc , New York, 1968, $3 00)

Young People's Arizona by Oren Arnold; illustrated by Donald M Yena (Naylor Co , San Antonio, Texas, 1968, $3 95)

Young Wayfarers of the Early West by Olive W Burt, illustrated by Jules Gotlieb (Hawthorn Books, Inc., 1968, $4 95)

Zapata and the Mexican Revolution by John Womack, Jr (Alfred A. Knopf, Inc., New York, 1969; $10 00).

Vigilantes *(continued from page 11)*

tolling of the Monumental Engine Company bell, raced them to the gallows on Battery Street.

Thus was the Committee of Vigilance master of San Francisco when it retired from active prosecution of criminals. Yet in its moment of greatest strength—when it seized Whittaker and MacKenzie from the jail and hanged them—it showed its weakness by acting in feverish haste. The character of the committee was akin to that of its chief instigator and first president, Sam Brannan. All of the hangings had for one reason or another been carried out in unseemly haste; only Stuart, among the executed, was certain to have been a murderer—and he had been convicted of capital offense not by the committee, but by the trial of his unwilling proxy, Burdue, in Marysville. All of the hanged were Sydney convicts; neither they, nor the criminals turned over to the civil authorities, nor those run out of town had much to do with the civic corruption that permitted or encouraged their depredations. It was probably the incendiary attempts more than any other criminal action which prompted the formation of the committee; yet on June 22, two weeks after the formation of the vigilantes, just about all of the city that had not been burned on May 4 was destroyed in a conflagration that was almost certainly set by arsonists bent on plunder.

What the San Francisco vigilance committee, and its associate committees in the provinces, had done was to purge California of what San Francisco's annalists called "the sweepings from the prisons and the thieves'-alley of other lands." The popular conviction that the vigilantes had "cleaned up" San Francisco was wildly optimistic. The Committee of Vigilance, in deporting hoodlums without quibbling over the rules of evidence, and in preventing suspicious characters from landing, performed a service beyond the competence of even the most honest civil authorities; yet it failed to insure that honest government would succeed its own honest efforts. The reason for this failure is at once simple and obscure: this collection of civic leaders, successful men who dominated a large part of San Francisco's business and real estate, had a larger stake than anyone else in the developing "system." That the system was hopelessly corrupt was probably not much to the taste of most of them, but it was much easier to take arms against a loosely-organized gang of "outsiders"—born losers all—than it was to reconstruct a society within which they, after all, were getting on very well.

The reign of the committee roughly coincided with the perpetration of the most massive political fraud of the period. Starting on June 14 there was sold at public auction, over a period of more than six months, the most valuable part of the public lands held by the City of San Francisco. Because of the peculiar circumstances surrounding the sales, the property sold for a small fraction of its value at that time, and an even smaller fraction of the price it should have fetched in the succeeding years, during which it would have been placed on sale as the development of the city and its commerce suggested or required. Even while poor Jenkins was swinging from the roofbeam of the custom house for swiping an inadequate lockbox, some of the officials who could not save him for the courts—and perhaps some of the executioners who tailed onto the neckhoist—were already plotting a "heist" beyond the comprehension or capabilities of a regiment of Sydney Ducks.

Who was criminal, who was culpable, and who was cuckolded was not clear then or now. But that some foul conspiracy was afoot was certain. What happened was that Dr. Peter Smith, concessionaire for the City Hospital during the previous year, demanded payment in coin of the realm for his services. Now, Peter Smith had not been put off by the city; rather, the bankrupt government had paid him, like everybody else, in promissory notes. Coincident with the new city charter of April, 1851, the city debt was "funded." A board of commissioners (which included former Mayor Geary and Banker James King of William) was appointed to take possession of the real property belonging to the city and to convert the stopgap city scrip to proper bonds. Yet already Dr. Smith had sought court action to get payment for his notes. The city owed Smith something over $64,000, but unlike other creditors, he did not suppress his suit when the funding bill passed the legislature.

To satisfy the Smith claims, the sheriff advertised for public auction some 103 water-lots, seven blocks of South Beach property, and seven other large lots belonging to the city. As the property was now in the possession of the commissioners of the funded debt and in a sense was not any longer city property, there was some question in the popular understanding as to the legality of the sale. The funded debt commissioners tried to dispell such doubt by publicly declaring the prospective sale invalid—though they couched their declaration in such terms that there was perhaps some question as to what they really *did* say. Whatever they said, the public took in the sense of it and was not so foolish as to bid on land that it might

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not be legally for sale.

As a result, bids for the property were few and low. The first sale came nowhere close to satisfying the debt. The second big sale—of the city's wharves, the old city hall lot (burned clean on June 22nd), and the lot of the City Hospital (burned the previous year)—came on July 8. At the time the city was in a turmoil following controversy over vigilantes seizing police power to enter private dwellings. The second sale was no better attended than the first, requiring a third and a fourth sale, until at one sale, on January 30, 1852, some two thousand acres of city land were disposed of to "foolish" buyers. The debt was settled, at a terrible loss to the public—for (as you have guessed) the sales *were* found legal and binding.

Quite likely the fraud was not so great when first planned. Quite likely it "just grew." Quite likely, no single agent or agency was responsible—for none was ever clearly exposed. And quite likely a good-sized quorum of the "best citizens" were more or less implicated. One thing is certain: the citizens of San Francisco were cheated out of the most valuable part of their common patrimony under the eyes of a vigilance committee that looked the other way, chased some foreign scoundrels out of town, hanged a few, and fatuously advertised itself as the savior of the community. ❧

"Let Each Man Be His Own Executioner" is the first part of a two-part article by Roger Olmsted on the vigilance committees of San Francisco in 1851 and 1856. Part Two will appear in our next issue, with an accompanying note discussing the source material for both installments of the article.

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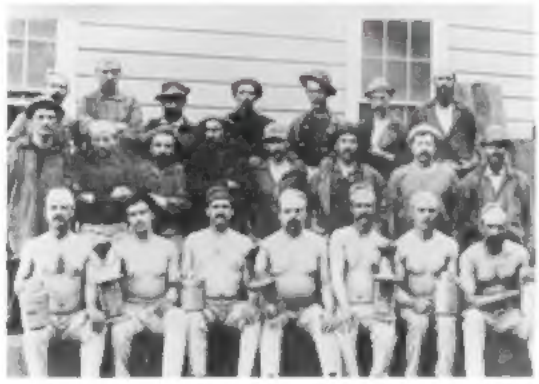

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THE WOBBLIES RECONSIDERED: Joseph R. Conlin takes another look at the IWW in the West, and ventures the opinion that the "One Big Union" was no more foreign to the American scene than the N.A.M. or Harry Chandler's Los Angeles Times.

THE VIGILANTES CONTINUED: Roger Olmsted narrates Part Two of "San Francisco and the Vigilante Style," in which the good citizens and merchants of the Golden City once again take the law into their own hands and discover that things aren't as simple as they used to be in the days of '51.

Together with: Austin and Alta Fife on women in western songs; Mrs. Frank Leslie on beautiful, bucolic Southern California, accompanied by a photographic profile on pre-megalopolis; and Gene Fowler in a literary reminiscence of "The Amorous Senator"—one of the great burros of the West.